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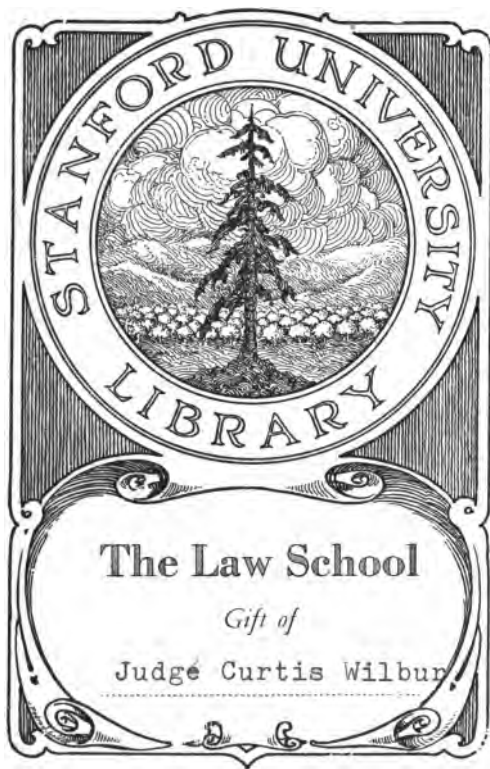
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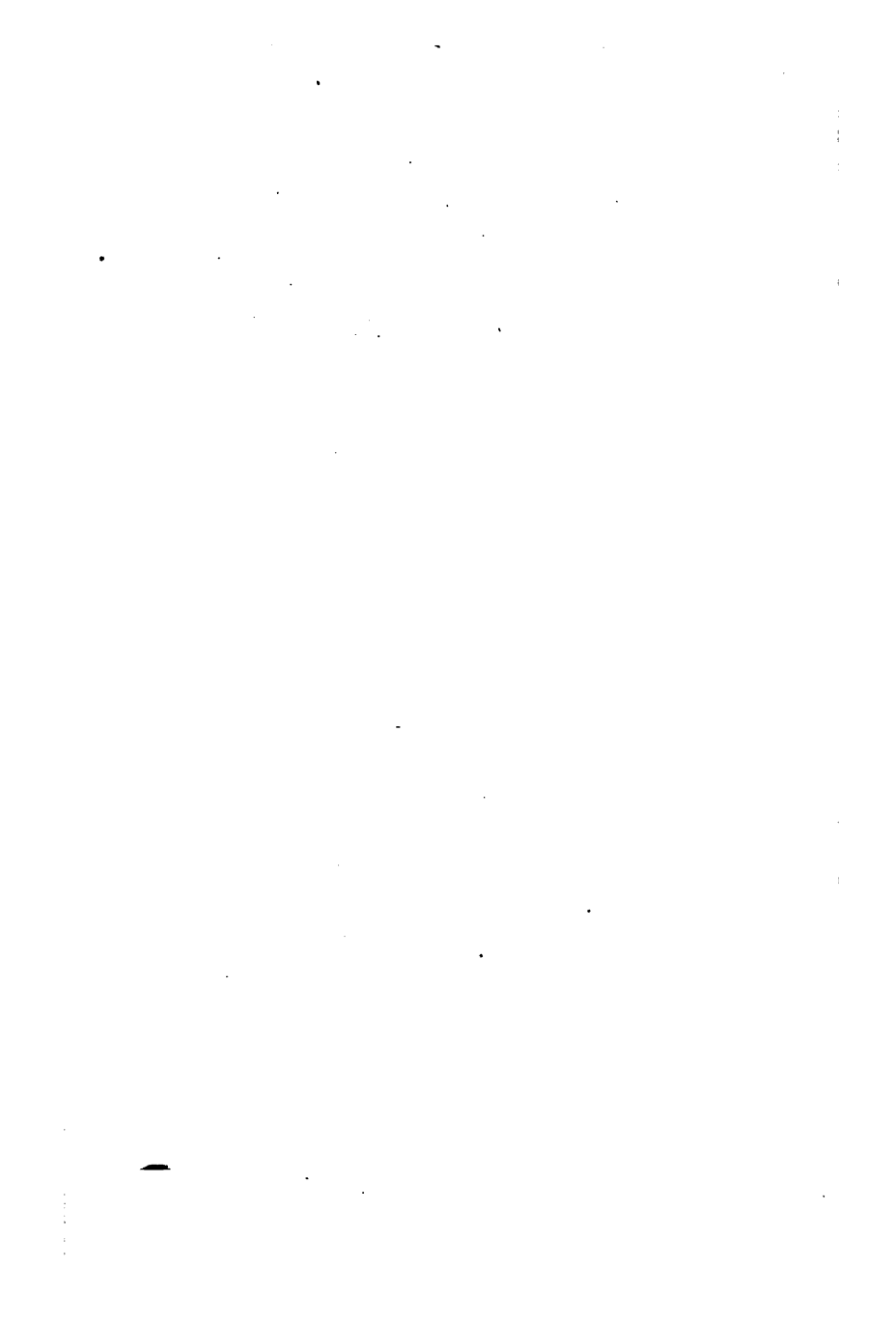
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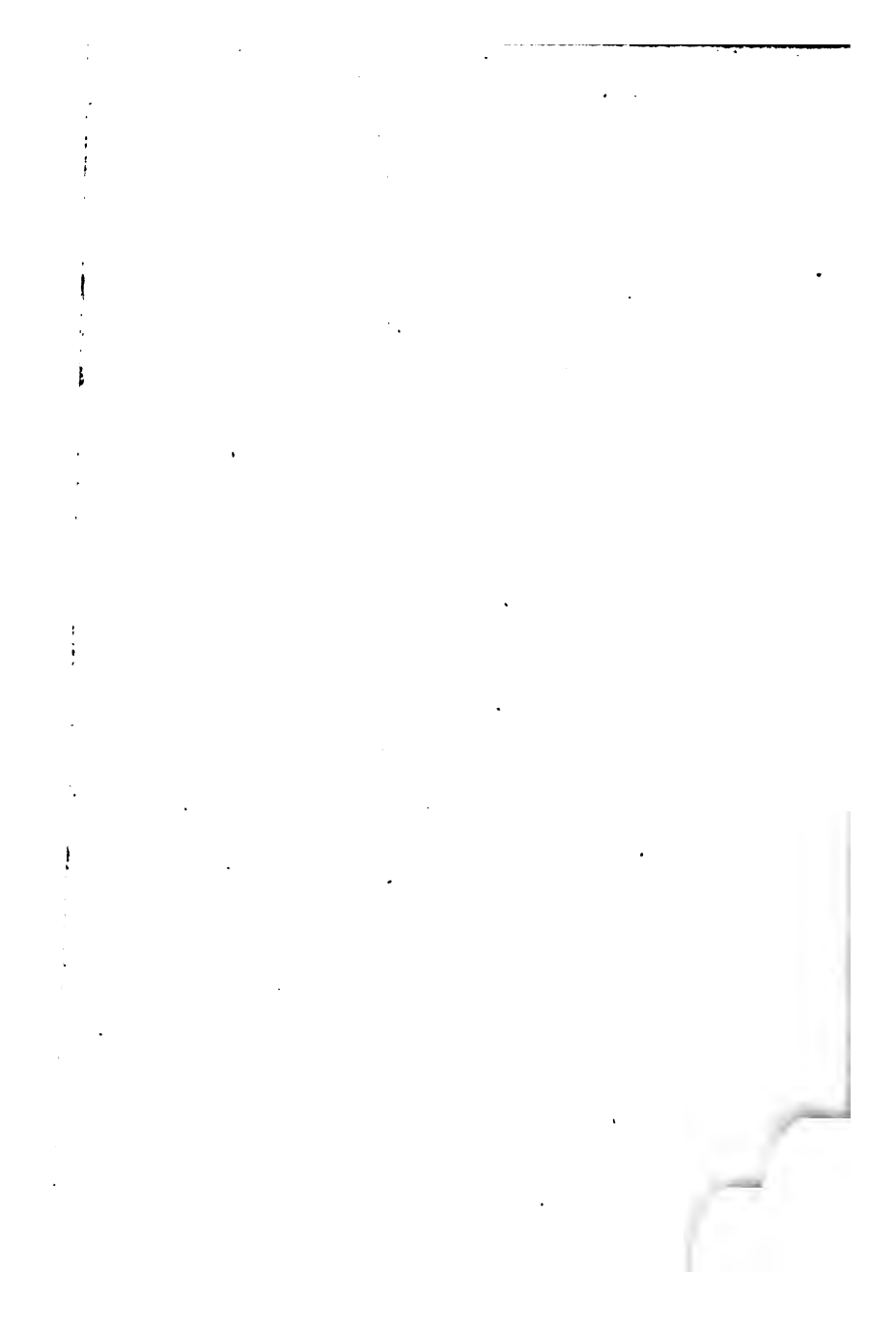
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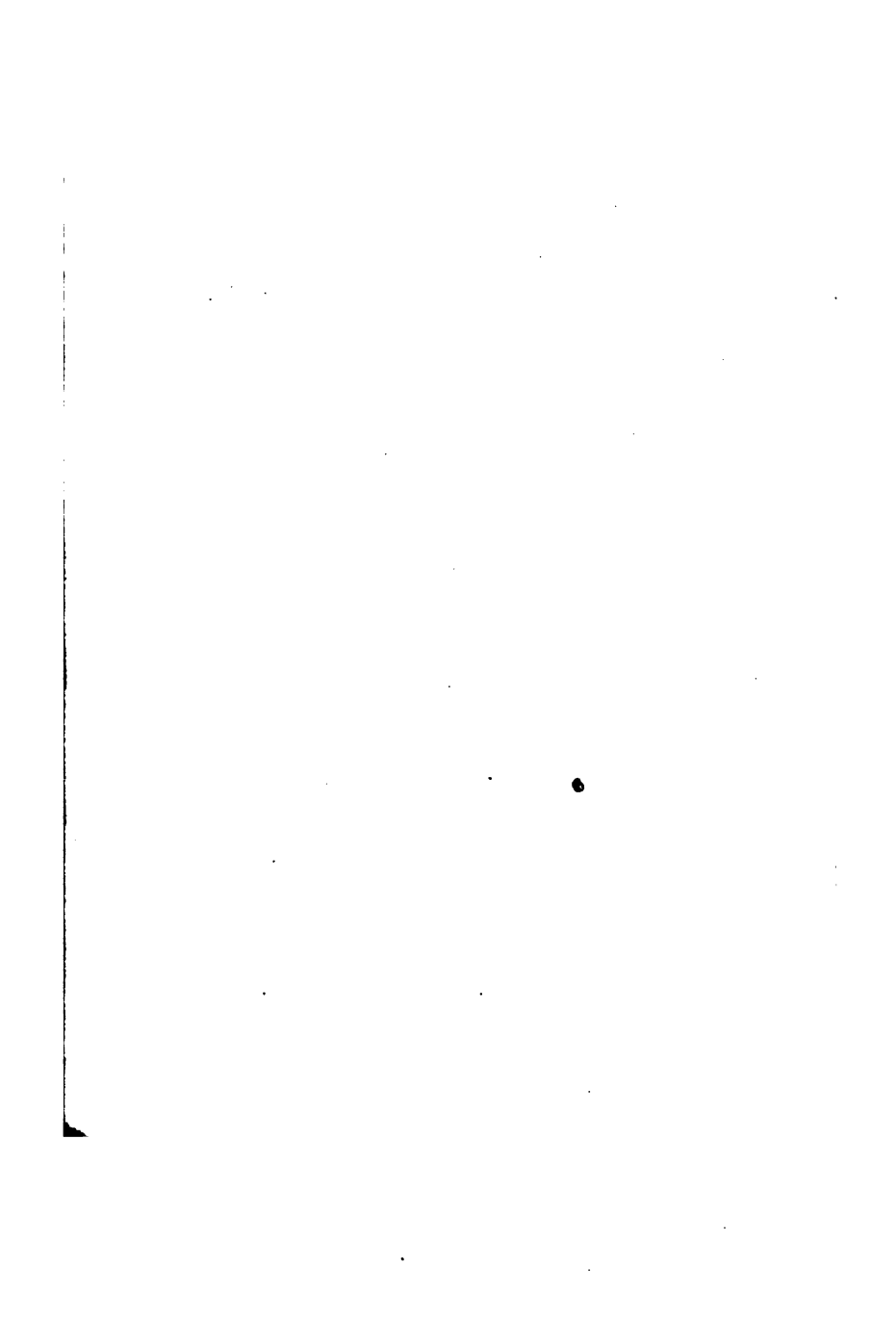


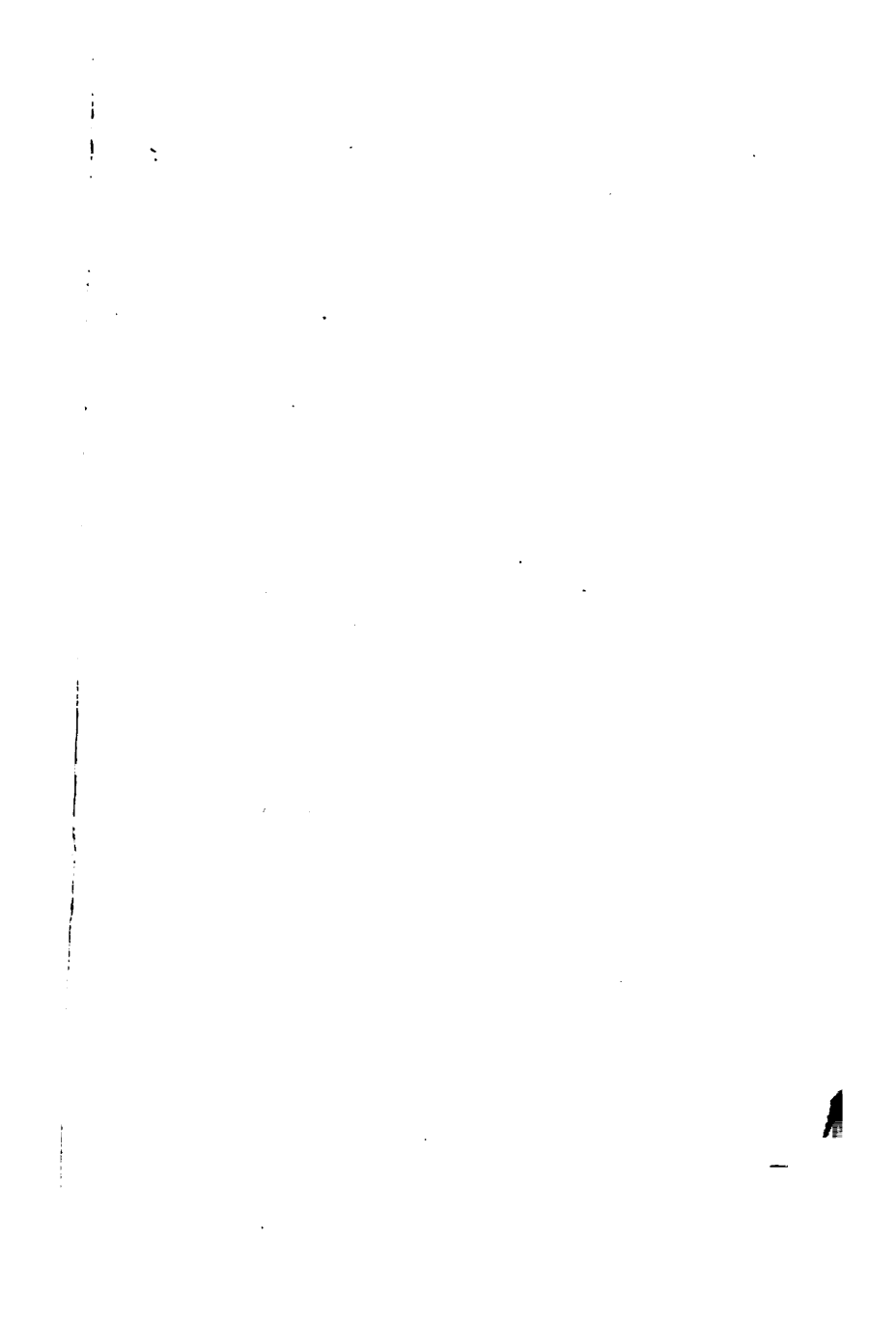
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# **LAWS CONCERNING GAS AND ELECTRICITY**

**GENERAL AND LOCAL WITHIN THE  
STATE OF CALIFORNIA**

**Being a Compilation of Statutory and Charter Provisions  
Affecting Gas and Electricity and Companies Dealing in  
or Supplying the Same for Purposes of Light,  
Heat or Power; Annotated by Reference  
to Decisions of the Supreme Court of  
California to February 1, 1904.**

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**PREPARED AT THE REQUEST AND UNDER THE DIRECTION  
OF**

**JOHN A. BRITTON,**

**PRESIDENT OF THE OAKLAND GAS, LIGHT AND HEAT COMPANY**

**BY**

**JOHN W. STETSON,**

**OF THE ALAMEDA COUNTY BAR.**

---

**OAKLAND, CAL.  
ENQUIRER PUBLISHING CO.**

**• 1904**

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## Scope Note

**INCLUDES** every provision directly mentioning the subject of gas or electricity, or companies supplying the same for any purpose; any special requirement in terms concerning granting of franchises; provisions concerning contracts relating to gas or electric companies; authority to license business; requirements concerning the preparation and presentation of claims upon the general municipal funds.

**EXCLUDES** provisions not by direct implication affecting gas or electricity, or companies dealing therein; provisions as to street railways; provisions concerning passage of general ordinances; claims to Boards of Education or Library Trustees; right of eminent domain given in charters; obstructions to streets; limitation of municipal indebtedness; payment of warrants depending upon condition of funds.



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# Introduction

The following pages of extracts from the statutes of California and the charters of its municipalities are intended as an aid to officers and office employes of gas and electric light, heat and power companies doing business in the State of California. The plan has been:

(1) to give the provisions of the general Statutes and Codes of California bearing upon the rights, powers and duties of the companies mentioned;

(2) to give the provisions of the General Municipal Corporations Act of 1883, and of the special charters of the various cities and towns of the State having a like bearing;

(3) to annotate the above by stating the interpretation given by the Supreme Court of the State up to the date of Feb. 1, 1904.

In the case of the San Francisco charter, the provisions have been further annotated by reference to the published opinions of the City Attorney of that City and County since its adoption. Of the statutory and charter provisions, only those have been taken which plainly concern or affect gas and electric companies doing a general business. An effort has been made to refer to all the cases in which such companies have been parties, and which have reached the Supreme Court. Of course many of these have no particular bearing upon the subject, and such have been merely cited under the heading "Miscellaneous." In the section on Negligence, only those cases have been included which relate directly to negligence of the companies in question. The Code provisions on Negligence have not been included.

Attention is called to the fact that certain enactments, as for instance, that commencing on page 4, may have been constructively repealed or limited in a greater or less degree by subsequent laws. It is not within the scope of

this work, however, to notice or discuss modifications not expressly declared to be such in the later acts, nor to comment on the question of the unconstitutionality of statutes or charter provisions.

This is in no sense a treatise on the subject. It is an annotated compilation of statutory provisions affecting a special kind of corporation. No attempt has been made to discuss principles nor to express opinions.



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# INCORPORATED CITIES AND TOWNS OF CALIFORNIA.

City or Town	Class	Date of In- corporation	Population 1900.	How Incorporated
Alameda (city)	5th.	1884	16,464	General Law of 1883.
Alhambra (city)	6th.	1903		General Law of 1883.
Alturas (town)	6th.	1901	532	General Law of 1883.
Alviso (town)	6th.	1882	531	Special Act of Legislature.
Anaheim (town)	6th.	1888	1,456	General Law of 1883.
Antioch (town)	6th.	1890	674	General Law of 1883.
Arcadia (city)	6th.	1903		General Law of 1881.
Arcata (town)	6th.	1903	952	General Law of 1883.
Auburn (city)	6th.	1888	2,050	General Law of 1883.
Azusa (city)	6th.	1893	863	General Law of 1883.
Bakersfield (city)	5th.	1898	4,836	General Law of 1883.
Belvedere (town)	6th.	1896	1,444	General Law of 1883.
Benicia (city)	6th.	1886	2,751	General Law of 1883.
Berkeley (town)	6th.	1896	13,214	Freeholders' Charter.
Biggs (town)	6th.	1903		General Law of 1883.
Bishop	6th.	1903		General Law of 1883.
Black Diamond (town)	6th.	1903		General Law of 1883.
Boulder Creek	6th.	1903		General Law of 1883.
Calistoga (town)	6th.	1886	690	General Law of 1883.
Chico (city)	5th.	1896	2,640	General Law of 1883.
Claremont *	6th.	1903		General Law of 1883.
Cloverdale (town)	6th.	1888	750	General Law of 1883.
Coloma (town)	6th.	1858	231	Special Act of Legislature.
Colton (city)	6th.	1887	1,309	General Law of 1883.
Colusa (town)	6th.	1876	1,441	Special Act of Legislature.
Compton (town)	6th.	1888	639	General Law of 1883.
Corona (city)	6th.	1896	1,434	General Law of 1883.
Coronado (city)	6th.	1890	935	General Law of 1883.
Covina (city)	6th.	1901	11,933	General Law of 1883.
Crescent City	6th.	1885	699	General Law of 1883.
Dixon (town)	6th.	1884	783	General Law of 1883.
Downieville (town)	6th.	1883	500	Special Act of Legislature.
Elsinore (city)	6th.	1891	279	General Law of 1883.
Emeryville (town)	6th.	1896	1,016	General Law of 1883.
Escondido (city)	6th.	1888	758	General Law of 1883.
Etna (town)	6th.	1878	500	Special Act of Legislature.
Eureka (city)	6th.	1895	7,327	Freeholders' Charter.
Fairfield (town)	6th.	1903		General Law of 1883.
Felton (town)	6th.	1878	361	Special Act of Legislature.
Ferndale (town)	6th.	1893	846	General Law of 1883.
Fort Bragg (city)	6th.	1889	1,590	General Law of 1883.
Fort Jones (town)	6th.	1872	356	Special Act of Legislature.
Fresno (city)	6th.	1901	12,470	Freeholders' Charter.
Fullerton (city)	6th.	1904		General Law of 1883.
Gilroy (city)	6th.	1870	1,820	Special Act of Legislature.
Grass Valley (city)	6th.	1893	4,719	Freeholders' Charter.

## INCORPORATED CITIES AND TOWNS OF CALIFORNIA-Continued

City or Town	Class	Date of In- corporation	+Popula- tion 1900	How Incorporated
Hanford (city)	6th.	1891	2,929	General Law of 1883.
Haywards (town)	6th.	1892	1,905	General Law of 1883.
Healdsburg (city)	6th.	1883	1,869	General Law of 1883.
Hercules (town)	6th.	1900		General Law of 1883.
Hollister (town)	6th.	1901	1,315	General Law of 1883.
Hollywood (city)	6th.	1903		General Law of 1883.
Hornitos (town)		1870	196	Special Act of Legislature.
Kern (city)	6th.	1893	1,291	General Law of 1883.
Lakeport (town)	6th.	1888	726	General Law of 1883.
Lemoore (town)	6th.	1900	639	General Law of 1883.
Lincoln (city)	6th.	1890	1,061	General Law of 1883.
Linden (town)	6th.	1893	133	General Law of 1883.
Livermore (town)	6th.	1900	1,493	General Law of 1883.
Lompoc (town)	6th.	1888	972	General Law of 1883.
Long Beach *	6th.	1903		General Law of 1883.
Los Angeles (city)		1889	102,479	Freeholders' Charter.
Los Gatos (city)	6th.	1887	1,915	General Law of 1883.
Loyalton (town)	6th.	1901	309	General Law of 1883.
Markleeville (town)		1864		Special Act of Legislature.
Martinez (town)	6th.	1884	1,380	General Law of 1883.
Marysville (city)		1876	3,497	Special Act of Legislature.
Mayfield (town)	6th.	1903		General Law of 1883.
Meadow Lake (town)		1866		Special Act of Legislature.
Merced (city)	6th.	1889	1,969	General Law of 1883.
Mill Valley (town)	6th.	1900		General Law of 1883.
Modesto (city)	6th.	1884	2,024	General Law of 1883.
Monrovia (city)	6th.	1887	1,205	General Law of 1883.
Monterey (city)	6th.	1889	1,748	General Law of 1883.
Mountain View (town)	6th.	1902	1,090	General Law of 1883.
Napa City		1893	4,036	Freeholders' Charter.
National City	6th.	1887	1,086	General Law of 1883.
Nevada City		1878	3,260	Special Act of Legislature.
Oakland (city)		1889	66,960	Freeholders' Charter, Am'd 1896.
Oceanside (city)	6th.	1888	330	General Law of 1883.
Ontario (city)	6th.	1891	722	General Law of 1883.
Orange (city)	6th.	1888	1,216	General Law of 1883.
Oxnard (city)	6th.	1903		General Law of 1883.
Pacific Grove (city)	6th.	1883	1,411	General Law of 1883.
Palo Alto (town)	6th.	1894	1,653	General Law of 1883.
Pasadena		1901	9,117	Freeholders' Charter.
Paso de Robles (city)	6th.	1889	1,224	General Law of 1883.
Petaluma (city)	5th.	1884	3,871	General Law of 1883.
Pinole (town)	6th.	1903		General Law of 1883.
Placerville (city)	6th.	1903	1,748	General Law of 1883.
Pleasanton (town)	6th.	1894	1,100	General Law of 1883.
Pomona (city)	5th.	1888	5,526	General Law of 1883.
Potter Valley (town)	6th.	1890	513	General Law of 1883.
Porterville (city)	6th.	1902	1,602	General Law of 1883.
Red Bluff (city)	6th.	1895	2,750	General Law of 1883.
Redding (city)	6th.	1887	2,946	General Law of 1883.
Redlands (city)	6th.	1888	4,797	General Law of 1883.
Redondo Beach (city)	6th.	1892	855	General Law of 1883.

## INCORPORATED CITIES AND TOWNS OF CALIFORNIA—Continued

City or Town	Class	Date of Incorporation	† Population Census 1900	How Incorporated
Redwood City	6th.	1897	1,653	General Law of 1883.
Rio Vista (town)	6th.	1894	682	General Law of 1883.
Riverside (city)	6th.	1885	7,973	General Law of 1883.
Rocklin	6th.	1903	.....	General Law of 1883.
Sacramento (city)	.....	1893	29,282	Freeholders' Charter.
Salinas City	.....	1903	3,304	Freeholders' Charter.
San Bernardino (city)	5th.	1886	6,150	General Law of 1883.
San Buenaventura (town)	.....	1876	2,470	Special Act of Legislature.
San Diego (city)	.....	1889	17,700	Freeholders' Charter.
San Francisco (city)	.....	1899	342,782	Freeholders' Charter.
San Jacinto (city)	6th.	1888	583	General Law of 1883.
San Jose (city)	.....	1897	21,500	Freeholders' Charter.
San Juan (town)	6th.	1896	449	General Law of 1883.
San Leandro (town)	6th.	1892	2,253	General Law of 1883.
San Luis Obispo (city)	6th.	1884	3,022	General Law of 1883.
San Mateo (city)	6th.	1894	1,832	General Law of 1883.
San Pedro (city)	6th.	1888	1,787	General Law of 1883.
San Rafael (city)	6th.	1889	3,879	General Law of 1883.
Santa Ana (city)	5th.	1888	4,933	General Law of 1883.
Santa Barbara (city)	.....	1899	6,687	Freeholders' Charter.
Santa Clara (town)	.....	1872	3,660	Special Act of Legislature.
Santa Cruz (city)	.....	1876	5,659	Special Act of Legislature.
Santa Monica (city)	5th.	1902	3,066	General Law of 1883.
Santa Paula (city)	6th.	1902	2,301	General Law of 1883.
Santa Rosa (city)	.....	1872	6,673	Special Act of Legislature.
Sausalito (town)	6th.	1893	1,628	General Law of 1883.
Sebastopol (town)	6th.	1902	983	General Law of 1883.
Selma (town)	6th.	1893	1,083	General Law of 1883.
South Pasadena (city)	6th.	1888	1,001	General Law of 1883.
Sonoma (town)	6th.	1883	652	General Law of 1883.
Sonora (city)	6th.	1890	1,922	General Law of 1883.
Stockton (city)	.....	1889	17,506	Freeholders' Charter.
St. Helena (town)	6th.	1889	1,582	General Law of 1883.
Suisun (town)	6th.	1884	625	General Law of 1883.
Susanville (town)	6th.	1903	.....	General Law of 1883.
Tulare (city)	5th.	1888	2,216	General Law of 1883.
Ukiah (city)	6th.	1886	1,850	General Law of 1883.
Vacaville (town)	6th.	1892	1,220	General Law of 1883.
Vallejo (city)	.....	1899	7,965	Freeholders' Charter.
Visalia (city)	5th.	1900	3,065	General Law of 1883.
Watsonville (city)	.....	1903	3,528	Freeholders' Charter.
Wheatland (town)	6th.	1891	501	General Law of 1883.
Whittier (city)	6th.	1898	1,596	General Law of 1883.
Willits (town)	6th.	1888	791	General Law of 1883.
Willows (town)	6th.	1886	893	General Law of 1883.
Winters (town)	6th.	1898	785	General Law of 1883.
Woodland (city)	5th.	1890	2,886	General Law of 1883.
Yreka (town)	6th.	1888	1,263	General Law of 1883.
Yuba City	.....	1878	1,301	Special Act of Legislature.

\* No certificate of incorporation on file with Secretary of State.

† Where population is not given the census returns were taken by townships and not by cities and towns.

‡ First census taken after incorporation.

# LAWS CONCERNING GAS AND ELECTRICITY

STATE OF CALIFORNIA.

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## DIVISION ONE.

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### GENERAL PROVISIONS

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#### CHAPTER I.

##### Franchises

The Constitution of California, Art. XI, Sec. 19, provides:—

In any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose, under and by authority of the laws of this State, shall, under the direction of the Superintendent of Streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe, for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gaslight, or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof.

The word "city" in this provision includes towns. *People v. Stephens*, 62 Cal. 209; *Pereria v. Wallace*, 129 Cal. 397.

The only limitations upon this privilege are those contained in the language in which it is granted, viz: that the work shall be done "under the direction of the Superintendent of Streets, or other officer in control thereof" and "under such general regulations as the municipality may

prescribe for damages and indemnity for damages." *People v. Stephens*, 62 Cal. 209. Quoted with approval in *In re Johnston*, 137 Cal. 119.

"The Constitution does not authorize the municipality to require a permit as a condition upon which the pipes may be laid in its streets." *In re Johnson*, 137 Cal. 115.

The provisions of this section are mandatory and prohibitory. Therefore, a statute providing for the sale of franchises for the purposes named to the highest bidder is unconstitutional. *Pereria v. Wallace*, 129 Cal. 397.

Even though the pipes when laid may be available for other purposes than supplying gaslight, the corporation is not thereby deprived of the right which the Constitution has given it to lay its pipes in the streets, nor can it be required as a condition of exercising that right to declare that the gas to be supplied by it shall be used exclusively for illumination, or is to be supplied solely for such use. *In re Johnston*, 137 Cal. 115.

However a municipality may require an electric light company to obtain a permit before erecting its poles, and although the permit be unjustly refused, an injunction will not issue to prevent the Superintendent of Streets from interfering with the erection of such posts without a permit. *Mutual Electric Light Co. v. Ashworth*, 118 Cal. 1.

The right to lay pipes, under this provision is a franchise and is taxable as such. *San Jose Gas Co. v. January*, 57 Cal. 614; *Spring Valley Water Works v. Schottler*, 62 Cal. 69.

Cited in *Spring Valley Water Works v. San Francisco*, 61 Cal. 18; *San Diego Water Co. v. San Diego*, 118 Cal. 556.

Harry T. Cresswell, former City Attorney of San Francisco advised the Board of Supervisors that gas rates may be regulated under authority of this provision, although the legislature has not acted. Official Opinions, etc., of Harry T. Cresswell, 1893-1898, page 49.

He also maintained that this authorizes the fixing of rates for electric lights. *Id.*, page 8.

A similar result was reached in a case recently decided (Oct. 1, 1903) by Judge Wilbur of the Superior Court of Los Angeles County. The question involved was the right of the City of Pomona to fix a maximum rate which should be collected for gas and to impose a penalty when a higher rate is charged. It was maintained by counsel for the company that this section of the Constitution is not self executing with regard to the fixing of charges but required an Act of the Legislature to make it operative. The Court



held against this contention, and decided that the acceptance by a corporation of a franchise granted under this section is in effect a contract that the city may fix gas rates. The Court also held that a penal ordinance to enforce the rate was valid. In re Denninger; In re Carter. L. A. Sup. Ct. 145 (21)

This decision is foreshadowed by the opinion of the Supreme Court in People v. Stevens, 62 Cal. 209, interpreting this same section of the Constitution. There the point directly decided was the right to the use of the streets without previous action by the State Legislature. 649

Civil Code, Sec. 628.

No corporation hereafter formed must supply any city or town with gas, or lay down mains or pipes for that purpose in the streets or alleys thereof, without permission from the city or town authorities, granted in pursuance of the provisions of the Political Code or of statutes expressly continued by such Code. Nor must such corporation furnish or use any gas-meter which has not been proved and sealed by the inspector of gas-meters.

Pol. Code, Sec. 4410.

The common council, by ordinance, approved by the Mayor, may grant to any gas or water company the privilege of laying down pipes in the streets and alleys of such city for supplying gas and water for the streets and buildings thereon, for a term not exceeding twenty-five years.

Pol. Code, Sec. 4411.

In exercising the authority mentioned in preceding section, the common council must reserve the right to grant similar privileges to other companies, and to require the laying down of the pipes to be under the reasonable direction of the city authorities, and to be so laid as to do no injury to the proper use of the paving, planking or macadamizing of the streets and alleys, nor to private property situate thereon.

Pol. Code, Sec. 4413.

In granting authority to lay down pipes, and in contracting for gas and water, the common council must impose such restrictions and conditions, and provide for such locations and construction of gas and water works and pipes as to work the least possible public or private inconvenience, and provide for enforcing such restrictions and conditions.

## An Act Concerning Gas Companies.

(Stats. 1869-70; 815.)

Section 1. From and after the passage of this Act, it shall be lawful for the corporate authorities of every city and town in this State, and for the Supervisors of the City and County of San Francisco, to grant to any gas company the privilege of laying down pipes in the streets or alleys of such towns and cities, including San Francisco, as aforesaid, and supplying gas for the lighting of the streets and buildings thereon; such privilege to continue for a term not exceeding twenty-five years.

Sec. 2. Every such license or privilege shall be upon condition that the authorities shall have the right at any time to allow similar privileges to other companies; and upon the further condition, that the laying down of such pipes shall be subject to the reasonable direction of the said authorities, and shall do as little injury as possible to the paving, planking, or macadamizing of the streets and alleys aforesaid; and that whenever the paving, planking, or macadamizing of such streets or alleys is displaced for the purpose of laying down pipes or removing the same, or making connections therewith or repairs thereto, such paving, planking, or macadamizing shall be replaced in as good order as practicable by such company.

Sec. 3. The authorities of every such town or city, including San Francisco as aforesaid, may contract with any gas company for lighting the streets thereof; but no such contract shall be made at a fixed rate for a longer term than five years, nor at a variable or other rate for a longer term than ten years; nor shall any such contract be made at a higher rate than that now paid in the City of San Francisco.

Sec. 4. In addition to the foregoing provisions, the authority of such towns and cities shall affix to every license or contract such conditions as will be for the benefit of the public, and may secure their enforcement by any orders or ordinances which they may deem necessary. They may, also, control the location and construction of works so that they may be erected in suitable localities to give the least discomfort or annoyance to the public.

Sec. 5. This act shall take effect immediately.

In case of companies not comprehended within the constitutional provision quoted, the following statute governs:

An Act Providing for the Sale of Street Railroad and other Franchises in Municipalities and Providing Conditions for the Granting of such Franchises by Legislative or other Governing Bodies, and Repealing Conflicting Acts.

(Stats. 1901; 265).

Section 1. Every franchise or privilege to erect or lay telegraph or telephone wires, to construct or operate street railroads upon any public street or highway, to lay gas pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat and power along or upon any public street or highway, or to exercise any other privilege whatever hereafter proposed to be granted by Boards of Supervisors, Boards of Trustees, or Common Councils, or other governing or legislative bodies of any city and county, city or town within this State, except steam railroads and except telegraph or telephone lines doing an interstate business, and renewals of franchises for piers, chutes or wharves, shall be granted upon the conditions in this act provided, and not otherwise.

Sec. 2. An applicant for any franchise or privilege above mentioned shall file with the governing or legislative body of the municipality an application, and thereupon said governing body shall, in its discretion, and when the application is accompanied with a petition praying that the same be granted, signed by the owners of three-fourths of the frontage of the real property fronting along and upon the route of the franchise applied for, must advertise the fact of said application, together with a statement that it is proposed to grant the same, in one or more newspapers of the city and county, city or town wherein the said franchise or privilege is to be exercised. Said advertisement must state that bids will be received for such franchise, and that it will be awarded to the highest bidder, and the same must be published in such newspaper once a day for ten successive days if it be a daily newspaper, and if there be no daily newspaper published in such city and county, city or town, then it shall be published in a weekly newspaper once a week for four successive weeks, and in either case the full publication must be completed not less than twenty (20) nor more than thirty (30) days before any further action can be taken thereon.

See Sec. 4458 Pol. C., page 20.

Sec. 3. The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is granted, and, if it be a street railroad, the

route to be traversed; that sealed bids therefor will be received up to a certain hour and day named therein, and that the successful bidder and his assigns must, during the life of said franchise, pay to the municipality two per cent (2%) of the gross annual receipts of the person, partnership or corporation to whom the franchise is awarded, arising from its use, operation or possession. No percentage shall be paid for the first five (5) years succeeding the date of the franchise, but thereafter such percentage shall be payable annually; and in the event said payment is not made, said franchise shall be forfeited; *provided* further, that if the franchise be a renewal of a right already in existence, the payment of such percentage of gross receipts shall begin at once.

Sec. 4. (Relates to street railroads.)

Sec. 5. Said advertisement shall also contain a statement that the said franchise will be granted to the person, firm or corporation who shall make the highest cash bid therefor; *provided* only, that at the time of the opening of said bids any responsible firm or corporation present, or represented, may bid for said franchise or privilege a sum not less than ten per cent above the highest sealed bid therefor, and said bid, so made, may be raised ten per cent by any other responsible bidder present, and said franchise or privilege shall finally be struck off, sold and granted by said governing body to the highest bidder therefor, in Gold Coin of the United States, and said successful bidder shall be required to deposit with said governing body, or such person as it may direct, the full amount of his or its said bid, within twenty-four hours thereafter; and in case he or it shall fail so to do, then the said franchise or privilege shall be granted to the next highest bidder therefor.

Sec. 6. Work to erect or lay telegraph or telephone wires, to construct street railroads, to lay gas pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat or power, along or upon any public street or highway, or to exercise any privilege whatever, a franchise for which shall have been granted in accordance with the terms of this act, shall be commenced in good faith within not more than four months from the granting of said franchise, and if not so commenced within said time said franchise so granted shall be declared forfeited, and shall be completed within not more than three years thereafter, and if not so completed within said time said franchise so

granted shall be forfeited; *provided*, that for good cause shown the governing or legislative body may by resolution extend the time for completion thereof, not exceeding three months.

Sec. 7. The grantee of every franchise or privilege granted under this act shall file a bond running to said city and county, city or town, with at least two good and sufficient sureties to be approved by such governing body, in a penal sum by it to be prescribed and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill, and perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages, and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with such governing body within five days after such franchise is awarded, and in case said bond shall not be so filed, the award of such franchise shall be set aside, and the same may be granted to the next lowest bidder, or again offered for sale, in the discretion of said governing body.

Sec. 8. It shall be the duty of the Attorney-General, upon the complaint of any municipality, or, in his discretion, upon the complaint of any taxpayer, to sue for the forfeiture of any franchise granted under the terms of this act, for the non-compliance of any condition thereof.

Sec. 9. No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this act, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in anywise favor one person, firm or corporation, as against another, in bidding for the purchase thereof.

Sec. 10. Any member of any common council, or other governing or legislative body of any city and county, city or town of this State, who, by his vote, violates or attempts to violate the provisions of this act, or any of them, shall be guilty of a misdemeanor, and may be punished therefor, as provided by law, and may be deprived of his office by the decree of a court of competent jurisdiction, after trial and conviction.

Sec. 11. All acts or parts of acts in conflict herewith are hereby repealed; *provided, however*, that nothing

herein contained shall be construed as repealing or amending the following acts, to wit: "An act relating to the granting by the counties and municipalities of franchise for the construction of paths and roads for the use of bicycles and other horseless vehicles," approved March twenty-seventh, eighteen hundred and ninety-seven; "An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby," being chapter forty of the laws of eighteen hundred and ninety-seven of the State of California.

This act shall take effect immediately.

An electric light and gas company having a franchise granted by a municipal corporation to operate its gas and electric works, and to supply the inhabitants of the city with gas and electricity, is bound to operate its gas and electric works, and a lease thereof to a third party is ultra vires and void. *Visalia Gas and Electric Light Co. v. Sims*, 104 Cal. 326.

The effect of including such a franchise in a mortgage was left in doubt by the case of *Bank of Ukiah v. Reed*, 131 Cal. 597.

## CHAPTER II.

### **Rights, Duties and Privileges.**

Civil Code, Sec. 629.

Upon the application in writing of the owner or occupant of any building or premises distant not more than one hundred feet from any main of the corporation, and payment by the applicant of all money due from him, the corporation must supply gas as required for such building or premises, and cannot refuse on the ground of any indebtedness of any former owner or occupant thereof, unless the applicant has undertaken to pay the same. If, for the space of ten days after such application, the corporation refuses or neglects to supply the gas required, it must pay to the applicant the sum of fifty dollars as liquidated damages, and five dollars a day as liquidated damages for every day such refusal or neglect continues thereafter.

An applicant cannot maintain a suit under this section when the company offers to supply gas provided he will pay rent for the meter. Such an offer is not unjust discrimination on the part of the company when the applicant has had a meter previously and has failed to use sufficient gas to cover the rent of the meter.

*Smith v. Capital Gas Co.*, 132 Cal. 209.

Under this section, a gas company engaged in furnishing gas to consumers generally for profit, is bound to furnish it to the city upon demand; and having furnished it, the city is liable for the reasonable value thereof, although the Mayor of the city is president of the company and the city declares contracts in which city officers shall be interested void.

Capital Gas Co. v. Young, 109 Cal. 140.

This statute is penal in its nature and strict compliance with its provisions must be shown. The payment in this section provided to be made by the applicant must be actually made, or if tender is refused must be deposited in bank as provided in Sec. 1500, C. C.

Baker v. San Francisco Gas & Electric Co., 27 Cal., Dec., 214, 27 Cal. Dec. 216.

The obligation of a gas company to supply property owners results from the statute and not from contract. A contract between a consumer and a gas company to supply the former with gas is not void for want of mutuality, or because the consumer does not agree to take gas for a definite period.

Gallager v. Equitable Gas Light Co., 27 Cal., Dec., 221.

Civil Code, Sec. 630.

No corporation is required to lay service pipe where serious obstacles exist to laying it, unless the applicant, if required, deposits in advance, with the corporation, a sum of money sufficient to pay the cost of laying such service pipe, or his proportion thereof.

Civil Code, Sec. 631.

Any agent of a gas corporation exhibiting written authority, signed by the President or Secretary thereof for such purpose, may enter any building or premises lighted with gas supplied by such corporation, to inspect the

gas-meters therein, to ascertain the quantity of gas supplied or consumed. Every owner or occupant of such building who hinders or prevents such entry or inspection must pay to the corporation the sum of fifty dollars as liquidated damages.

Civil Code, Sec. 632.

All gas corporations may shut off the supply of gas from any person who neglects or refuses to pay for the gas supplied, or the rent of any meter, pipes or fittings provided by the corporation as required by his contract; and for the purpose of shutting off the gas in such case any employee of the corporation may enter the building or premises of such person, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon of any day, and remove therefrom any property of the corporation used in supplying gas.

A gas company has the right to charge rent for meters.

Smith v. Capital Gas Co., 132 Cal. 209.

This section implies that the gas corporation cannot shut off the supply of gas so long as the customer does not refuse or neglect to pay for the gas supplied by the corporation as required by his contract. The contract being shown and plaintiff having fully complied with its terms, and averring readiness to continue to take gas and ability to pay for it, injunction will lie against removing the meter or cutting off the supply of gas.

Gallager v. Equitable Gas Light Co., 27 Cal., Dec., 221.

Code Civ. Pro., Sec. 1238.

Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

3      ..... and all other public uses for the benefit of any county, incorporated city, or city and



county, village or town, or the inhabitants thereof, which may be authorized by the legislature; but the whole of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for the supplying of mines, quarries, railroads, tramways, mills and factories with electrical power, and also for the supplying of electricity to light or heat mines, quarries, mills, factories, incorporated cities, cities and counties, villages or towns, together with lands, buildings and all improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

13. Electric light lines, electric power lines, electric heat lines; and electric light, heat and power lines.

### CHAPTER III.

#### Regulations.

Under Art. XI, Sec. 19 of the Constitution, gas companies have the right to lay pipes for supplying gaslight "upon the condition that the municipal government shall have the right to regulate the charges thereof." (See section quoted in full under "Franchises," and notes. Chapter I.)

Constitution, Art. IV, Sec. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation. (See notes pages 2 and 3.)

An Act to Regulate the Quality and Standard Illuminating Power, and the Price of Gas, in all Cities within the State of California having a Population of One Hundred Thousand or More.

(Stats. 1877-8, 167.)

Section 1. That in all cities of the State of California having a population of one hundred thousand or more, the local legislative body thereof, whether known and designated as the Board of Supervisors, or Board of Aldermen, or Common Council, or Board of Trustees, or otherwise, are hereby authorized and required to fix the standard quality and illuminating power of gas to be furnished, and the rate and price for each one thousand cubic feet to be charged therefor by any person, company, or corporation whose pipes or mains are or shall be laid down in the streets or highways of such city, for the purpose of supplying gas for the use of such city, or for the inhabitants thereof, or for such city and its inhabitants; *provided, however*, that said Board or local authority shall not fix or establish the standard quality and illuminating power of gas in such city at less than sixteen candle power, or such that five cubic feet per hour so furnished shall give light at least equal to that afforded by the combustion of sixteen standard sperm candles consuming one hundred and twenty grains of sperm each per hour, the burner to be used in making such test to be that best adapted to the economical consumption of gas; and *provided, further* that such Board of Supervisors, or local legislative authority, by whatever name it may be known, shall not fix or establish the rate or price of gas so furnished to such city or its inhabitants at any greater price or rate than three dollars per thousand cubic feet.

Sec. 2. It shall be the duty of the Mayor of each city having the population mentioned in section one of this Act, and such Mayor is hereby required, within thirty days after the passage and approval of this Act, to appoint, subject to the approval of the Board of Supervisors, or other local legislative body aforesaid, a person of competent experience and knowledge of and concerning the proper qualities and illuminating power of gas, and who shall not be directly or indirectly interested in or connected with any person, company, or corporation, engaged in the manufacture or furnishing of illuminating gas in such city, or elsewhere, either to such city or its inhabitants, or any of them, either as a stockholder or otherwise, who shall be known and designated as Gas Inspector of such city, who shall hold his said office for the term of two years, or until his successor shall be appointed and qualified; subject, however, to removal from his said office by the Mayor with the concurrence of a majority of the Board of Supervisors, or other local legislative board aforesaid, for any

one of the following causes, to-wit: by reason of any interest in the manufacture or furnishing of gas in such city, whether such interest existed at the date of his appointment or was afterward acquired, or for want of competent knowledge, skill, or experience to enable him properly to discharge the duties of said office, or for any neglect, misconduct, or inefficiency in the discharge of the duties of said office, to the prejudice of such city, or its inhabitants, or any of them. The person so appointed shall, before he enters upon the duties of said office, and within ten days after his appointment and confirmation, take and subscribe an oath or affirmation before the County Judge of the county in which said city is situated, that he will faithfully and impartially perform and discharge all the duties required by this Act and the ordinances or resolutions of said Board passed or adopted under and pursuant to the provisions thereof, as such Gas Inspector of such city, and shall also, within the same time, give bond to the city in and for which he is appointed, in the sum of ten thousand dollars, with sureties to be approved by said Board, conditioned for the faithful performance of the duties of said office, which said oath and bond shall be filed with the Clerk of said Board. Such Gas Inspector shall be entitled to a salary to be fixed and allowed by said Board, which shall be paid monthly out of the General Fund of such city.

Sec. 3. It shall be the duty of such Inspector, immediately upon his appointment and qualification as such officer, as aforesaid, to make a careful examination and inquiry, by inspection, letter, or otherwise, as to the quality and illuminating power of the gas furnished and used in the principal cities of the United States, and the prices charged therefor, and also the comparative cost of the manufacture and supply of gas in other cities of the United States, with the cost of the manufacture and supply of the same in the city for which he is such Inspector, and report fully the result of such examination and information to said Board within six months after his appointment and qualification; and upon receiving such reports, said Board shall proceed to fix and establish the quality and standard illuminating power of gas to be used in such city, and the maximum price to be charged therefor; and such standard and price may be charged by said Board from time to time, not oftener than once every year, as increased consumption or other circumstances may in their judgment require.

Sec. 4. After said Board shall have fixed and established the quality and illuminating power, and the price of gas,

as hereinbefore, it shall be the duty of such Inspector to examine and inspect, from time to time, at least once every week, without notice to the person, company, or corporation furnishing the same, the quality and illuminating power of the gas furnished to such city and the inhabitants thereof, and in case the same shall fall below the standard fixed by said Board, the said Inspector shall forthwith report the same to said Board; and at such other times as he may be requested thereto by the Mayor of any committee of said Board, he shall report to said Board upon any and all matters connected with the manufacture, supply, and consumption of gas coming within the scope of his official duties, and specially upon any subject or subjects, matters or things, connected therewith and specified in such request.

Sec. 5. After said Board shall have fixed and established the quality and standard illuminating power of the gas, and the price per thousand cubic feet, as in this Act provided to be charged therefor, it shall be unlawful for any person, company, or corporation to furnish to such city, or any inhabitant thereof, or other person therein, for illuminating purposes, gas of a lower standard or quality, or to charge or receive therefor a higher price than is provided by said Board, under the authority and subject to the limitations of this Act; and for every violation of the provisions of this Act, or the provisions of any order, resolution, or ordinance of said Board made in pursuance thereof, every such person, company, or corporation shall incur a penalty of not less than one hundred nor more than one thousand dollars, to be recovered in a civil action in the name and for the use of such city, in any Court of competent jurisdiction; and each day upon which such person, company, or corporation shall, without reasonable cause or excuse therefor, furnish gas of a lower quality or standard illuminating power than that fixed by said Board, shall constitute and be considered and held one violation thereof, and each month or shorter period for which said person, company, or corporation shall take an account of gas consumed, and for which they shall charge or receive a price greater than that fixed by said Board, shall be held and regarded as one offense, and any number of such offenses of either class, or both, may be joined in the same action, and the several penalties for the several violations proved or confessed in said action may be united and recovered in the same judgment; and such person, company, or corporation shall also be liable to such city and to any and each person or corporation who shall be

injured by any such violation, in double the amount of damages actually sustained.

Sec. 6. All actions for penalties under the provisions of this Act shall be tried by the Court, unless a jury be demanded by either party; and when such action shall be tried by a jury, the jury shall find, as to each violation charged in the complaint, that "the defendant is guilty," or "the defendant is not guilty"; and upon each charge in respect to which the jury has found the defendant guilty, the Court shall fix the penalty, and render judgment for the aggregate amount of such penalties, together with costs of suit.

Sec. 7. All penalties recovered under this Act shall be paid into the General Fund of such city.

Sec. 8. This Act shall apply to the City and County of San Francisco, as well as to cities whose municipal government is distinct from the county in which they are located.

Sec. 9. This act shall take effect immediately.

The Board of Supervisors has no lawful authority to delegate to persons not members of the Board the power to fix and determine the compensation to be paid by the city for gas. *San Francisco Gaslight Co. v. Dunn*, 62 Cal. 580, 589.

An ordinance making it unlawful to erect or maintain any works for the manufacture of gas, or any tank or other receptacle for the storage of gas within certain limits, is a legitimate exercise of the police power of the city. *Dobbins v. City of Los Angeles*, 139 Cal. 179.

## CHAPTER IV.

### **Taxation.**

In fixing a valuation upon the mains, the Assessor may take into consideration the cost, as estimated by himself, of digging the trenches, laying the pipes, and making the connections. *San Jose Gas Co. v. January*, 57 Cal. 614.

A franchise for using public streets and laying pipes for supplying a city with gas and water has a value and may be assessed. *San Jose Gas Co. v. January*, 57 Cal. 614. See also *San Francisco Gaslight Co. v. Schottler*, 62 Cal. 119.

## CHAPTER V.

### **Contracts With Municipalities.**

Constitution, Art. XI, Sec. 18.

No county, city, town, township, board of education,

or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also a provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same; *provided, however*, that the City and County of San Francisco may at any time pay the unpaid claims, with interest thereon at the rate of five per cent per annum, for materials furnished to and work done for said city and county during the forty-first, forty-second, forty-third, forty-fourth, and fiftieth fiscal years, and for unpaid teachers' salaries for the fiftieth fiscal year, and of the income and revenue of any succeeding year or years, the amount to be paid in full of said claims not to exceed in the aggregate the sum of five hundred thousand dollars, and that no statute of limitations shall apply in any manner to these claims; and provided further, that the City of Vallejo, of Solano County, may pay its existing indebtedness, incurred in the construction of its waterworks, whenever two-thirds of the electors thereof, voting at an election held for that purpose, shall so decide, and that no statute of limitations shall apply in any manner. Any indebtedness or liability incurred contrary to this provision, with the exceptions hereinbefore recited, shall be void.

In construing this, the Supreme Court, in *S. F. Gas Co. v. Brickwedel*, 62 Cal. 641, said: "But it must be remembered that all are presumed to know the law, and that whoever deals with a municipality is bound to know the extent of its powers. Those who contract with it, or furnish it supplies, do so with reference to the law, and must see that limit is not exceeded."

"The natural and reasonable construction to be given to this language is that all legitimate indebtedness of the municipality for any year must not exceed all the revenues and income provided for that year, and all indebtedness beyond such provision becomes void and cannot be paid out of the funds of a succeeding year or at all except by the assent of two-thirds of the qualified voters." *Higgins v. City of San Diego*, 131 Cal. 294.

"The clear intent expressed in the said clause was to limit and restrict the power of the municipality as to any

indebtedness or liability which it has discretion to incur or not to incur." *Lewis v. Widber*, 99 Cal. 413.

For further cases interpreting this section, see: *Argenti v. San Francisco*, 16 Cal. 255; *McCracken v. San Francisco*, 16 Cal. 591; *Shaw v. Statler*, 74 Cal. 258; *Welch v. Strother*, 74 Cal. 413; *Schwartz v. Wilson*, 75 Cal. 502; *In re Madera Irr. Dist.*, 92 Cal. 296; *Smith v. Broderick*, 107 Cal. 644; *Howland v. Supervisors*, 109 Cal. 152; *Weaver v. San Francisco*, 111 Cal. 319; *Bilby v. McKenzie*, 112 Cal. 143; *McBean v. Fresno*, 112 Cal. 159; *Smilie v. Fresno*, 112 Cal. 311; *Los Angeles v. Teed*, 112 Cal. 319; *Pacific Undertakers v. Widber*, 113 Cal. 201; *Goldsmith v. San Francisco*, 115 Cal. 36; *Higgins v. San Diego Water Co.*, 118 Cal. 524; *Buck v. Eureka*, 119 Cal. 44; *Bradford v. San Francisco*, (Cal.), 44 Pac. Rep. 912.

#### Pol. C. 4412.

The Common Council may contract with gas and water companies for supplying the streets and public buildings with all gas and water necessary for their proper use; the rates to be paid therefor must not be fixed for a term exceeding five years, and the city authorities must reserve the right to abrogate such contract whenever gas or water is offered to be supplied at two-thirds of such fixed contract price.

The source of power to a municipal corporation is its charter. The modes of contracting therein prescribed become the measure of power. *Los Angeles Gas Co. v. Toberman*, 61 Cal. 199.

Where a city ordinance authorizes the making of a contract by certain committees on behalf of the city "subject to confirmation by the Common Council for said city," a confirmation by joint resolution and not by ordinance is sufficient. *San Francisco Gas Co. v. San Francisco*, 6 Cal. 190.

Where a contract with a municipal corporation is executory, the corporation cannot be held bound unless the contract is made in pursuance of the provisions of the charter; but where the contract has been executed and the corporation has enjoyed the benefit of the consideration, an implied assumpsit arises against it. *San Francisco Gas Co. v. San Francisco*, 9 Cal. 453.

If a contract for lighting a city is tainted with fraud, and is not the result of a fair and honest exercise of the discretion and judgment of the City Council, it is the duty of a court of equity to set it aside; but where it appears that the contract was fair and reasonable, that there was no fraud nor collusion practiced, and that the members of

the Council in all the proceedings connected with the awarding of the contract acted honestly, for the best interests of the city, the contract cannot be disturbed at the suit of opposing bidders whose bids do not cover the same ground as that covered by the contract. *Riehl v. City of San Jose*, 101 Cal. 442.

## CHAPTER VI.

### Provisions of the Penal Code and Penal Statutes.

#### Penal Code, Sec. 498.

Every person who, with intent to injure or defraud, makes or causes to be made any pipe, tube, or other instrument, and connects the same, or causes it to be connected, with any main, service pipe, or other pipe for conducting or supplying illuminating gas, in such manner as to supply illuminating gas to any burner or orifice, by or at which illuminating gas is consumed, around or without passing through the meter provided for the measuring and registering the quantity consumed, or in any other manner so as to evade payment therefor, and every person who, with like intent, injures or alters any gas meter or obstructs its action, is guilty of a misdemeanor.

#### Penal Code, Sec. 499 a.

Every person who, with intent to injure or defraud, shall unlawfully connect, or procure another to connect, with any electric apparatus or any electric wire, operated by any person, persons or corporation authorized to generate, transmit, and sell electric current, without the knowledge and consent of such person, persons, or corporation operating such apparatus or wires, for the purpose of appropriating electric current for light, power, heat, or other use, and to evade payment therefor, or who shall, with like intent, injure or alter, or who shall procure to be injured or altered, any electric meter or obstruct its working, or who shall procure the same to be maliciously tampered with and injured, shall be deemed guilty of a misdemeanor.

#### Penal Code, Sec. 593.

Every person who unlawfully and maliciously takes down, removes, injures, interferes with, or obstructs any line erected or maintained by proper authority for the purpose of transmitting electricity for light, heat, or power, or any part thereof, or any insulator or cross-arm, appurtenance or apparatus connected therewith, or severs or in any way interferes with any wire, cable, or current thereof, is pun-



ishable by imprisonment in the State Prison not exceeding five years, or by fine not exceeding five hundred dollars, or imprisonment in the County Jail not exceeding one year.

Penal Code, Sec. 624.

Every person who willfully breaks, digs up, obstructs, or injures any pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenances or appendages therewith connected, is guilty of a misdemeanor.

And see also

An Act to regulate the use of illuminating gas.

(Stats. 1903; 289.)

Section 1. Every hotel-keeper, lodging house keeper, and inn keeper, or keeper of any place where rooms are let to lodgers in which, or any of which such places illuminating gas is used, who shall turn off, or cause to be turned off at the meter the flow of such illuminating gas, during the time of the use of any such room or rooms, shall be guilty of a misdemeanor; *provided, however*, that this act shall not apply to any of the persons herein enumerated, when such person or persons shall have connected every exit orifice upon the gas fixtures used in such place or places with a practical and safe automatic gas igniter.

Sec. 2. This Act shall take effect from and after its passage.

## CHAPTER VII.

### Negligence.

Gas and electric companies are of course liable for injuries due to their negligence. Thus, an electric company was held liable for an injury sustained from contact with a wire used to sustain one of the poles supporting a trolley wire, and which was so negligently placed as to become charged with electricity. *Clare v. Sacramento Electric P. & L. Co.*, 122 Cal. 504.

*Tedford v. Los Angeles Electric Light Co.*, 134 Cal. 76, was a case where an inexperienced man who had never performed the work of lineman, was required by a superior fellow servant, to ascend a pole and scrape the wire, without being furnished with rubber gloves or other protective appliances used by linemen, and without any warning as to the danger of the work, of which he was ignorant. He was injured in doing the work and the company was held responsible.

An electric company in using the dangerous form of electricity not generally used, is required to use very great care to prevent injury to person or property, and it is sufficient proof of negligence for it not to raise its wires so high above a roof on which they are placed that those having occasion to go there will not come in contact with them. *Giraudi v. Electric Imp. Co.*, 107 Cal. 120.

In an action for death caused by improperly insulated electric wire maintained in violation of a city ordinance, the right of recovery is not precluded by the mere fact that the original position of the wire may have been subsequently changed by some extrinsic cause. *Wales v. Pacific Electric Motor Co.*, 130 Cal. 521.

When the evidence in an action for negligence of defendant in causing a gas explosion to the injury of plaintiff shows that an obstruction of the gas-pipe by a gunny sack, complained of as constituting the negligence which caused the explosion, caused it only in the sense that it led plaintiff as superintendent in charge of the gas works to an experiment which directly and proximately caused the accident, and which no one but himself had authority to direct, and of the danger of which he was aware, he alone is responsible for the injuries sustained. *Taylor v. Baldwin*, 78 Cal. 517.

## CHAPTER VIII.

### Miscellaneous.

Pol. Code, Sec. 4458.

Whenever any publication, or notice by publication, or official advertising is required to be given or made by the provisions of this code, the Civil Code, the Code of Civil Procedure, the Penal Code, or by any law of the State, by any officer now existing, or any hereafter to be created, in this state, or any political subdivision thereof, or by any officer of a county, city, city and county, or town, such publication or notice by publication, or official advertising, shall be given or made only in a newspaper of general circulation, where such a newspaper is published within the jurisdiction of said official.

Pol. Code, Sec. 4459.

A newspaper of general circulation is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, having a bonafide subscription list of paying subscribers, and which shall have been established, printed, and published, in the state, county, city, city and county or town, where such publication, notice of publication, or official advertising, is given or made, for at least one year. A newspaper devoted to the interests,

or published for the entertainment of a particular class, profession, trade, calling, race, or denomination, or any number thereof, is not a newspaper of general circulation.

Mandamus to compel Supervisors to audit claims does not necessarily require board to allow them. *People, ex rel. Gas Co. v. Supervisors of San Francisco*, 11 Cal. 42.

Under a statute since repealed it was held that mandamus would lie to compel a city council to advertise for bids for lighting the streets. *Santa Rosa Lighting Co. v. Woodward*, 110 Cal. 30.

Where a gas company lays pipes under a party's land and agrees to pay rent therefor, it is estopped from denying its landlord's title. *Lataillade v. Santa Barbara Gas Co.*, 58 Cal. 4.

An assessment by an electric light company for the necessary repair of its engine and machinery, without which it cannot answer the demands upon it for the supply of electric lights, is clearly authorized by the provisions of Sec. 331 of the Civil Code. *Younglove v. Steinman*, 80 Cal. 375.

Where a charter provision limits the hours of labor for work to be performed for a municipality, Judge Seawell of the Superior Court in San Francisco has recently decided that it does not apply to work to be performed under a contract to light streets and public buildings. His ruling was that gas and electricity are commodities, and that the corporation agreeing to supply and the municipality to pay for them, assume the relation of seller and purchaser of personal property; that the gas company therefore was not bound by charter provisions fixing eight hours as the maximum day's labor and two dollars as the minimum day's wage on all work performed for the city.

*S. F. G. & E. Co. v. S. F., S. F. Sup. Ct.*, 1903.

In the following cases, gas or electric companies were either parties or involved in the litigation, but no principles peculiar to such corporations were laid down. *Emery v. San Francisco Gas Co.*, 28 Cal. 345; *Soule v. San Francisco Gaslight Co.*, 54 Cal. 241; *People v. San Francisco Gaslight Co.*, 54 Cal. 248; *Oakland Gaslight Co. v. Dameron*, 57 Cal. 292; *Brown v. San Francisco Gas Co.*, 58 Cal. 426; *People v. San Francisco Gaslight Co.*, 60 Cal. 351; *id.*, 60 Cal. 349; *Oakland Gaslight Co. v. Dameron*, 67 Cal. 663; *Sayre v. Citizens' Gaslight Co.*, 69 Cal. 207; *Marysville Elect. Light, etc., Co. v. Johnson*, 93 Cal. 538; *Elbert v. Los Angeles Gas Co.*, 97 Cal. 244; *Los Angeles Lighting Co. v. City of Los Angeles*, 106 Cal. 156; *Marysville Electric Light Co. v. Johnson*, 109 Cal. 192; *Sims v. Petaluma Gas Light Co.* 131 Cal. 656.

## DIVISION TWO.

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### MUNICIPAL CORPORATIONS ACT AND COUNTY GOVERNMENT ACT.

Stat. 1883:93.

The Municipal Corporations Act is a general law providing for the incorporation of municipal corporations. Six classes of municipalities are provided for. At present there are no cities nor towns of the first four classes.

#### CHAPTER I.

##### **Municipalities of the First Class.**

###### **Sec. 64.**

The municipal council shall further have power by regulation or ordinance:

3. To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

See Sec. 4412, Pol. Code, quoted at page 17. See also note to Sec. 862 of this Act.

18. To license and regulate, for the purposes of city, or city and county, revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties or otherwise, the collection and due payment into the city, or city and county, treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the Collector of Licenses.

Sec. 91. No payment can be made from the treasury or out of the public funds of such city, or city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this chapter provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the auditor in favor of any person, officer, company, or corporation, in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or

officer having the collections, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law, or by the regulations established by the municipal council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other act of the legislature regulating the duties of such officer, on being required in writing to comply therewith by the president of the board of aldermen, or any member of the finance committee of the municipal council; nor in favor of any officer for the time he shall have absented himself without lawful cause, from the duties of his office, during the office hours prescribed in this chapter; and the auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

Sec. 92. The term "audited," as used in this chapter with reference to demands upon the treasury, is to be understood their having been presented to and passed upon by every officer and board of officers, and finally allowed as required by law; and this must appear upon the face of the paper representing the demand, or else it is not audited.

Sec. 93. Every demand upon the treasury, except the salary of the auditor, and including the salary of the treasurer, must, before it can be paid, be presented to the auditor for such city, or city and county, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid and whether the payment thereof from the treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "allowed" with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the auditor, or the municipal council, or either branch thereof, or any board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the Treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date, and value composing it, and refer to the law, by title, date, and section, authorizing the same.

Sec. 94. All other lawful demands payable out of the treasury, or any public funds of

such city, or city and county, and not hereinbefore in this section specified, must, before they can be allowed by the auditor in any manner, or recognized, or paid, be first approved by the municipal council, except, if the demand be under two hundred dollars, by the mayor and two members of the board of aldermen, appointed by the said board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said board. The auditor must number and keep a record of all demands on the treasury allowed by him, showing the number, date, amount, and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers; or board it has been so approved; and it shall be deemed a misdemeanor in office for the auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

Sec. 99. If any person feel aggrieved by the decision of the auditor, or other proper officer or officers of such city, or city and county, except the board of education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the municipal council, whose decision thereon shall be final; and if the said council shall approve and allow the demand, it shall afterwards be presented to the auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any Court of competent jurisdiction; provided, that from the decision of the president of the board of education and superintendent of schools, refusing or not agreeing to allow any demand payable out of the school fund, the appeal shall be taken to the Board of Education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction.

Sec. 107.

All contracts relating to city, or city and county, affairs shall be in writing, signed and executed in the name of the city, or city and county, by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the Mayor. All contracts shall be countersigned by the auditor and registered, by number and dates, in his office,

in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this chapter in the first instance, until a sufficient contract is executed. In all cases when the Board of Aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may, in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this Act, as to bids and contracts, shall be enforced by the Municipal Council by appropriate ordinances as to all bids, proposals, and contracts with such city, or city and county; or any department thereof.

#### Sec. 249.

The Board of Education shall have power:

6. To provide for the School Department of such city, or city and county, fuel, lights, blanks blank books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the Superintendent.

#### Sec. 252.

It shall be the duty of the Board of Education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the Superintendent of Schools; and the contract shall be entered into by the Superintendent with the party to whom the contract is awarded; and the Superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

#### Sec. 253.

All bids or proposals made under the preceding section shall be delivered to the Superintendent of Schools, and said Board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder *provided*, said Board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city

and county or said Board, and cause a republication of the notice for proposals as above specified. Any person may bid for any one article.

## CHAPTER II.

### **Municipalities of the Second Class.**

#### **Sec. 319.**

The City Council ..... shall have power ..... to make regulations..... for licensing; taxing and regulating all such vehicles, business, and employments, as the public good may require, and as may not be prohibited by law; .....for the regulation and location of slaughter-houses, markets, stables, and gas-works, and houses for the storage of gunpowder and other combustible materials, and limit the quantity of combustible or explosive materials to be stored in any one place;

#### **Sec. 322.**

All sales or leases of property belonging to the city shall be by public auction to the highest bidder, and upon such terms and conditions as the Council may by ordinance direct; and all contracts for supplies, of any kind, for more than five hundred dollars, shall be let to the lowest responsible bidder, after ten days' notice given by posting the same in three of the most public places in the city, or by publishing the same in any newspaper printed and published in such city.

See Pol. C. Secs. 4458, 4459, page 20.

#### **Sec. 359.**

All gas and water pipes laid in any paved, macadamized, or graded street, must be of sufficient capacity to afford a free supply of gas or water for the estimated necessities of such street, and the district to be supplied by such pipes, for a period of not less than five years from the time of laying the same; which estimates of necessity and capacity shall be made by the City Engineer, and approved by the Council. It shall be the duty of the Council, by ordinance, to prescribe regulations for the laying of gas and water pipes in the public streets.

#### **Sec. 371.**

Every demand upon the treasury, except for the salary of the Mayor, must, before it can be paid, be presented to the Mayor, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the



payment thereof from the treasury of the city is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the Mayor, or of the City Council, or of any other Board or officer, of any demand, which upon the face of it appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the Treasurer or other disbursing officer for paying the same. The demand of the Mayor for his salary shall be audited and allowed by the President pro-tempore of the City Council.

#### Sec. 412.

The Board of Education shall have sole power:

4. To provide for the school department of the city, fuel and lights, water, blanks, blank books, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said Board.

#### Sec. 415.

No School Director or Superintendent shall be interested in any contract pertaining in any manner to the school department of said city. All contracts in violation of this section are declared void, and any Director or Superintendent violating or aiding in violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars.

### CHAPTER III.

#### Municipalities of the Third Class.

#### Sec. 523.

No ordinance, and no resolution or order for the payment of money, for granting any franchise, for lighting or watering streets, or for supplying water for municipal purposes, shall be passed by the Common Council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting; and no ordinance, and no such resolution or order, shall have any validity or effect unless passed by the votes of at least four Aldermen and approved by the Mayor; *provided*, that if the Mayor shall neglect or refuse to approve the same within five days, then the same may be passed by the votes of five Aldermen, and shall then take effect as if approved by the Mayor.

**Sec. 524.**

The Common Council of such city shall have power:

4. To establish, lay out, alter, open, keep open, improve, and repair streets, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; .....

See note to Sec. 862 of this Act.

10. To license, for purposes of regulation and revenue, all and every kind of business authorized by law, and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

13. To permit, under restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other motive power thereon, and the laying of gas and water pipes in the public streets, and the construction and maintenance of telegraph and telephone lines therein.

**Sec. 526.**

All demands against such city, except for school purposes, shall be presented to and audited by the Common Council, in accordance with such regulations as they may, by ordinance, prescribe, and, upon the allowance of any such demand, the Mayor shall draw a warrant upon the Treasurer for the same, which warrant shall be countersigned by the Clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

**Sec. 536.**

In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water-fronts, or in or about embankments or other works for protection against overflow, or in furnishing any supplies or materials for the same, when the expenditures required for the same exceeds the sum of five hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after due notice, under such regulations as may be prescribed by ordinance; *provided* that the Common Council, or Board of Education may reject all bids presented, and readvertise, in their discretion; *and provided further*, that in case of any great and unforeseen calamity or emergency the Common Council, by a resolution, unanimously adopted and approved by the Mayor, may dispense with the foregoing provisions of this section, the reason for such action

being entered on their minutes. The Common Council shall, annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice as provided in this section. All advertising shall be done in a newspaper printed and published in such city, and the contract therefore shall be awarded separately from all other printing.

See Pol. Code, Secs. 4458, 4459, page 20.

See note to Sec. 777 of this Act.

#### **Sec. 573.**

The Board of Education shall have power:

5. To provide for the school department of such city fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said Board.

#### **Sec. 578.**

Every claim payable out of the School Fund shall be filed with the Clerk of the Board of Education, and after it shall have been approved by the Board, a certificate of such approval shall be indorsed thereon, signed by the President and Clerk; and a warrant upon the School Fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the President of such Board, and countersigned by the Clerk, and shall specify for what purpose the same was drawn.

#### **Sec. 591.**

No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or material furnished, in which any such officer is interested, shall be void, and if audited and allowed, shall not be paid by the Treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

See note to Sec. 211, Sacramento Charter; also note to Sec. 628 of this Act.

### **CHAPTER IV.**

#### **Municipalities of the Fourth Class.**

#### **Sec. 622.**

The City Council shall have power ..... to fix and collect a license tax upon all occupations and trades,

and all and every kind of business authorized by law, not heretofore specified.

Sec. 624.

All accounts and demands that shall lawfully arise against the city shall be submitted to the City Council, and if found correct, shall be allowed, and an order be made that the demand be paid; upon which (if there be funds in the treasury as in the preceding section provided) the Clerk shall draw a warrant, which shall be countersigned by the President of the City Council, upon the Treasurer, in favor of the owner or owners of the demand, specifying for what purpose and by what authority it is issued, and out of what fund it is to be paid, and the Treasurer shall pay the same out of the proper fund. All accounts and demands against such city, other than such as are chargeable to or payable out of the School Fund, must be presented to the City Council, duly itemized, and accompanied with an affidavit of the party, or his agent, stating the same to be a true and legitimate claim against such city for the full amount for which the same is presented, and that the same accrued as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid shall be forever barred, and said Council shall have no authority to allow any account or demand not so presented in manner and time as aforesaid, nor shall any action be maintained against such city for or on account of any demand or claim against the same, until such demand or claim shall have been first presented to the City Council for action thereon.

Sec. 628.

All contracts for work to be performed, or materials to be used, ordered by or for such city, or in which it is interested, may be, and when the cost exceeds five hundred dollars shall be let to the lowest bidder. A notice signed by the Clerk, soliciting sealed proposals, shall be published a reasonable time, in no case less than ten days, prior to the time fixed for opening such bids. Such notice shall designate the work to be done, and the place and the time in which it may be performed and such other specifications as may tend to give the bidders a knowledge of the object to be accomplished, and with a reference to the diagram or specifications on file in the Clerk's office. On the day limited in said notice for the opening of said bids, the Council, or a committee therefor appointed, shall, in open meeting, open and declare said bids and award the contract to the lowest responsible bidder; *provided, however, that the*

City Council, or its committee, may reject all bids, when considered too high or uncertain from any circumstances. The Council or committee may, before considering any offer, require security that the party will enter into a contract if awarded to him; and all contracts shall be in writing, and accompanied with a bond satisfactory to the Mayor. No officer of such city shall be interested in any contract to which the city is a party, and any contract contrary to the provisions hereof shall be void.

A contract by a city of this class with one of its School Trustees, for street work, is void, and furnishes no basis for a valid assessment therefor. *Capron v. Hitchcock*, 98 Cal., 427. See also note to Sec. 211. Sacramento Charter. As to printing, see Pol. C. Secs. 4458, 4459, page 20.

#### Sec. 629.

The City Council is authorized and empowered to establish, lay out, alter, open, improve, and repair streets, avenues, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and cross walks therein or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees along the lines thereof or therein, and generally to manage and control all such highways and places.

See note to Sec. 862 of this Act.

#### Sec. 711.

The Superintendent (of Schools) ..... shall, at the regular meeting of the Board of Education in June of each year, submit to the Board a detailed statement of the amount, as near as may be ascertained, of fuel, blanks, blank books, apparatus, stationery, and such other articles, materials, or supplies including books for indigent children, as may be necessary for the use of the city schools and the Board for one year following. He shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the School Fund or other matters relating to his official duties.

#### Sec. 712.

The Board of Education shall, upon the receipt of the statement from the Superintendent, as in the preceding section provided, advertise for the space of five successive days in some newspaper published in such city, for sealed proposals for furnishing the articles in said state-

ment specified. Said advertisement shall designate a day after the expiration of the publication aforesaid when said proposals will be considered, at which time the Board or a committee thereof by the Board for such purpose designated, shall meet and publicly open and declare the proposals received, and shall thereupon award the contract therefor to the lowest responsible bidder or bidders, in each case; *provided*, that all bids may be rejected if deemed too high. Said Board may, in their discretion, require a good and sufficient bond with two or more sureties, to be filed by each bidder, in the sum of two hundred dollars, conditioned for the fulfillment of his proposal in case of the acceptance thereof. As to printing, see Pol. C. Secs. 4458, 4459, page 20.

#### Sec. 713.

Subject to and in accordance with the directions and provisions of this chapter, the Board of Education shall have full power:

4. To build, alter, repair, rent, and provide school-houses, and the same furnish with lights, water, proper school furniture, apparatus, and school appliances, and to insure any and all school property.

10. To examine and allow, in whole or in part, every demand payable out of the School Fund, or to reject any such demand for good cause, of which the Board shall be sole judge.

#### Sec. 718.

All claims payable out of the School Fund shall be filed with the Secretary of the Board, and shall be approved by a majority of all the members of the Board, and certificate of such approval shall be indorsed thereon; whereupon the Secretary of said Board shall draw a warrant upon the City Treasurer for the payment thereof, which warrant shall be countersigned by the Superintendent. All demands for salaries of teachers and compensation of janitors shall be payable monthly in the same manner without presentation of claims therefor.

### CHAPTER V.

#### Municipalities of the Fifth Class.

The following cities and towns are incorporated under the Municipal Corporation Act as municipalities of the fifth class: Alameda, Bakersfield, Chico, Petaluma, Pomona, San Bernardino, Santa Ana, Santa Monica, Tulare, Visalia, Woodland.

The provisions applying to gas and electric light companies are as follows:

Sec. 763. (Am'd Stats. 1889; 389.)

No resolution granting any franchise, and no ordinance for any purpose, shall be passed by the Board of Trustees on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, or an adjourned regular meeting, and no such resolution and no ordinance granting any franchise shall be passed without being first submitted to the City Attorney. No resolution or order for the payment of money shall be passed at any other than a regular meeting, or an adjourned regular meeting, and no resolution or order for the payment of money, no resolution granting a franchise, and no ordinance for any purpose, shall have any validity or effect unless passed by the affirmative vote of at least three trustees.

Sec. 764. (Am'd Stats. 1901; 656.)

The Board of Trustees of such city shall have power:

3. To contract for supplying the city with water and electric or other lights for municipal purposes; to purchase, lease, or construct waterworks, and electric plants, and all machinery, conductors, and appliances necessary therefor, and to supply said city with, and to sell to the inhabitants thereof, water, light, heat, and power; *provided* that no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election, shall vote in favor of such proposition.

4. To establish, build, and repair bridges; to establish, lay out, alter, keep open, open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

See note to Sec. 862 of this Act.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or

carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license upon the same, and to provide for the collection of the same by suit or otherwise.

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of, telegraph, telephone, and electric light lines therein.

Sec. 766.

All demands against such city, except as otherwise by law provided, shall be presented to and audited by the Board of Trustees, in accordance with such regulations as they may, by ordinance, prescribe; and upon the allowance of any such demand the President of the Board shall draw a warrant upon the Treasurer for the same, which warrant will be countersigned by the Clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

Sec. 777. (Am'd Stats. 1891; 54.)

In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation printed and published in such city, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the Board of Trustees may reject all bids presented, and re-advertised in their discretion. The Board of Trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section, and the contract therefor shall be awarded separately from all other printing.

The lighting of streets by electricity does not come within term "street work." Therefore, a contract for such



purpose does not come within the terms of this provision. *Electric Light Co. v. San Bernardino*, 100 Cal. 348. As to printing, see Pol. C. Secs. 4458, 4459, page 20.

**Sec. 798.**

The Board of Education shall have power:

4. To provide for the school department of such city, fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

**Sec. 801.**

The President of the Board of Education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the Board of Education, and to witnesses examined in any investigation had by such Board of Education, or by a committee thereof, duly appointed by it for that purpose.

**Sec. 803.**

Every claim payable out of the school fund shall be filed with the Secretary of the Board of Education, and after it shall have been approved by the Board a certificate of such approval shall be indorsed thereon, signed by the President and Secretary, and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the President of such Board, and countersigned by the Secretary and shall specify for what purpose the same is drawn.

**Sec. 811.**

No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

See note to Sec. 211, *Sacramento Charter*. Also, note to Sec. 628 of this Act.

## CHAPTER VI.

**Municipalities of the Sixth Class.**

The following cities and towns are incorporated under the General Municipal Corporation Act, as municipalities of the Sixth Class:

Alhambra, Alturas, Anaheim, Antioch, Arcadia, Arcata, Auburn, Azusa, Belvedere, Benicia, Biggs, Bishop, Black Diamond, Boulder Creek, Calistoga, Claremont, Cloverdale, Colton, Compton, Coronado, Corona, Covina, Crescent City, Dixon, Elsinore, Emeryville, Escondido, Fairfield, Ferndale, Ft. Bragg, Fullerton, Hanford, Haywards, Healdsburg, Hercules, Hollister, Hollywood, Kern, Lakeport, Lemoore, Lincoln, Linden, Livermore, Lompoc, Long Beach, Los Gatos, Loyalton, Martinez, Mayfield, Merced, Mill Valley, Modesto, Monrovia, Monterey, Mountain View, National City, Oceanside, Orange, Ontario, Oxnard, Pacific Grove, Palo Alto, Paso de Robles, Pinole, Placerville, Pleasanton, Porterville, Potter Valley, Red Bluff, Redding, Redlands, Redondo Beach, Redwood City, Rio Vista, Riverside, Rocklin, San Jacinto, San Juan, San Leandro, San Luis Obispo, San Mateo, San Rafael, San Pedro, Santa Paula, Sausalito, Sebastopol, Selma, South Pasadena, Sonora, Sonoma, St. Helena, Susan, Susanville, Ukiah, Vacaville, Wheatland, Whittier, Winters, Willits, Willows, Yreka.

The provisions relating to gas and electric light corporations in such municipalities are as follows:

**Sec. 861.**

No ordinance, and no resolution granting any franchise for any purpose, shall be passed by the Board of Trustees on the day of its introduction, nor within five days thereafter nor at any other than a regular meeting. No resolution or order for the payment of money shall be passed at any other than a regular meeting. And no ordinance, resolution or order shall have any validity or effect unless passed by the votes of at least three Trustees.

**Sec. 862. (Am'd Stats., 1903; 93.)**

The Board of Trustees of said city shall have power:

4. To establish, build and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the city or town, and to drain, sprinkle, oil and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks

therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places; and in the exercise of the powers herein granted to expend, in their discretion, the ordinary annual income and revenue of the municipality in payment of the costs and expenses of the whole or any part of such work or improvement.

The power to light the city implies also the power to use the means necessary to accomplish that object. A city of the sixth class has power to issue bonds for the purpose of supplying electric light about the public streets, parks, places and buildings of the city. *Hammond v. San Leandro*, 135 Cal. 450.

10. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

13. To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light and heat; public libraries, museums, gymnasiums, parks and baths, and to permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

#### Sec. 864.

All demands against such city or town shall be presented to and audited by the Board of Trustees, in accordance with such regulations as they may by ordinance prescribe; and, upon the allowance of any such demand, the President of the Board shall draw a warrant upon the Treasurer for the same, which warrant shall be countersigned by the Clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

#### Sec. 874. (Am'd Stats. 1897; 89.)

In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in and about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or mater-

ials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, printed and published in such city or town, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period; such notice shall distinctly and specifically state the work contemplated to be done; *provided*, that the Board of Trustees may reject any and all bids presented and readvertise, in their discretion. The Board of Trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section.

See note to Sec. 777 of this act. See also Pol. C., Secs. 4455, 4459, page 20.

Sec. 886.

No officer of such city or town shall be interested, directly or indirectly, in any contract with such city or town, or with any of the officers thereof in their official capacity, or in doing any work or furnishing any supplies for the use of such city or town, or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the Treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

See note to Sec. 211, Sacramento Charter; Also, note to Sec. 628 of this Act.

## CHAPTER VII.

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### COUNTY GOVERNMENT ACT.

(Stats. 1897; 454.)

Sec. 25.

The Boards of Supervisors in their respective counties shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

11. To examine, settle, and allow all accounts legally chargeable against the county, except salaries of officers,

and such demands as are authorized by law to be allowed by some other person or tribunal, and order warrants to be drawn on the County Treasurer therefor.

25. To license, for purposes of regulation and revenue, all and every kind of business not prohibited by law, and transacted and carried on in such county, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise;..... The board may provide that any such license shall cease upon the non-payment of such tax, and any person, firm, or corporation transacting or carrying on such business, without such license whenever prescribed, is guilty of a misdemeanor.

32. To adopt such rules and regulations within their respective counties, with regard to keeping and storing of every description of gunpowder, Hercules powder, giant powder, or other explosive or combustible material, as the safety and protection of the lives and property of individuals may require.

35. To grant licenses and franchises for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, booms, and piers, and to grant franchises along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper and in such manner as to present the least possible obstruction and inconvenience to the traveling public.

Sec. 40. The Board of Supervisors must not hear or consider any claim in favor of any public officer, person, corporation, company, or association against the county, nor shall the Board credit or allow any claim or bill against the county or district fund, unless the same be itemized, giving names, dates and particular services rendered, character of process served, upon whom, distance traveled, where and when, character of work done, number of days engaged, supplies or materials furnished, to whom, and quantity and price paid therefor, duly verified to be correct, and that the amount claimed is justly due, and is presented and filed with the Clerk of the Board within a year after the last item of the account or claim accrued. If, in case of any claim which requires itemizing, the Board do not hear or consider the same because it is not itemized, they shall cause notice to be given to the claimant or his attorney of that fact, and give time to have the claim itemized and reverified.

Sec. 45. No member of the Board must be interested,

directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the Board, or other person, on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for any purpose, or act as a member of a committee or board of reviewers.

Sec. 46. Whenever an application is made to the Board for an order, franchise or license relating to any toll road, bridge, ferry, wharf, chute, pier or other subject over which the Board has jurisdiction, in which a majority of the Board are interested, the application, by order of the Board, must be transferred to the Superior Court of the county. The Clerk of the Board must thereupon certify the application, and all orders and papers relating thereto to said Superior Court, and thereafter the said Superior Court shall have full jurisdiction to hear and determine the application.

## DIVISION THREE.

### CHARTER PROVISIONS.

The charter provisions relating to gas and electric light companies follow. Many of the earlier charters are very brief and contain nothing directly applicable. Such is true of the charters of Alviso, Coloma, Etna, Fort Jones, Hornitos and Meadow Lake.

#### CHAPTER I.

#### BERKELEY.

(Stats. 1895; 407.)

##### Sec. 17.

No officer of the town shall be interested, directly or indirectly, in any contract with the town, or with any of the officers thereof, in their official capacity, or doing any work, or furnishing any supplies for the use of the town, or its officers, in their official capacity; and any claim for compensation for work done, or supplies and materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the Treasurer.

Any willful violation of the provisions of this section shall be deemed a misdemeanor and punished as such, and if found guilty such officer shall forfeit all rights to said office, and the same shall be declared to be vacant.

See note to Sec. 211, Sacramento Charter.

##### Sec. 26.

To constitute an ordinance a bill must before final action thereon be passed to print and published, with the ayes and noes, for two days; and in case of any amendment being thereafter made must in like manner be republished as amended for not less than one day.

No action providing for any specific improvement other than those provided under general Statute, or the granting of any privilege or involving the lease, appropriation or disposition of public property, or expenditure of public money (except sums of less than five hundred dollars), or the levying of any tax or assessment, or the imposing of any new duty or penalty, shall be taken except by ordinance.

##### Sec. 43.

No contract for lighting public streets, buildings, places or offices shall be made for a longer period than two years; nor shall any contract be made to pay for gas, electric lights or any other illuminating material at a higher rate than charged to any other consumer.

**Sec. 45.**

All contracts must be in writing, executed in the name of the Town of Berkeley, and by an officer authorized to make the same.

The form and legality of all contracts shall be submitted to and passed upon by the Town Attorney. Every contract must be countersigned by the Auditor, numbered and registered in a book kept for that purpose.

**Sec. 50.**

The Board of Trustees shall have power:

5. To license for purposes of regulation and revenue all and every kind of business not prohibited by law to be transacted or carried on in the Town and all shows, exhibitions and lawful games carried on therein; to fix the rates of license upon the same, and to provide for the collection of the same by suit or otherwise.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

8. To establish, build and repair bridges; to establish, lay out, alter, keep open, open, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the Town, and to drain, sprinkle and light the same, to remove all obstructions therefrom, to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or upon any part thereof; to cause to be planted, set out and cultivated shade trees therein; and generally to manage and control all such highways and places.

10. To lay and to permit, as they may deem proper, the laying of gas or water pipes or electric conduits in the public streets; and to construct and maintain, and to permit the construction and maintenance of telegraph, telephone, or electric light lines therein.

11. To regulate the quality, capacity and location of water and gas pipes, mains and fire-plugs, and to provide for and regulate the construction and repair of hydrants, fire-plugs, cisterns, pumps, and such other appliances as may be requisite to utilize the distribution of water and gas in the streets, public places and public buildings.

18. To regulate the maintenance of powder works, acid works, slaughter houses, wash houses, laundries, tanneries, offensive trades, and all other manufactories, works and business of every description that may endanger the public safety, health or comfort, and to restrict the prosecution thereof to such fixed limits as may seem proper or to exclude such works and business from the town.

See note to Sec. 27, Los Angeles Charter.



**Sec. 75.**

The Board of Education shall have power:

7. To provide for the school department of the town fuel and lights, water, printing and stationery, and to incur such other incidental expenses as may be deemed necessary by the Board.

**CHAPTER II.  
COLUSA.**

(Stats. 1875-76; 669.)

**Sec. 10.**

The Board shall manage the finances and property of the town, and shall have power:

Third. To provide for lighting, watering, and cleaning the town, and protecting it against fire.

See note to Sec. 862, Municipal Corporations Act.

Fifth. To regulate the keeping and use of gunpowder and other dangerous substances in the town.

See note to Sec. 27, Los Angeles Charter.

Fifteenth. To regulate and license show-men, shows, theaters, theatrical performances, circuses, and every other kind of public exhibition or performance, and to license every and all kinds of occupations and business not prohibited by law and carried on or conducted in the town, and to fix the amount of license to be paid in all cases, not, however, in any case to exceed the amount fixed by law for State and county purposes .....

See note to Sec. 2 subdiv. 13, Los Angeles Charter.

Eighteenth. To grant to any gas or water company the privilege of laying down pipes in the streets, alleys, or grounds of the town, for supplying gas and water to the town and the inhabitants thereof, for a term not exceeding twenty years, and to contract with such gas or water company for the requisite amount of gas and water for the use of the town; provided, that the Board of Trustees shall reserve the right to abrogate such contract whenever gas or water shall be offered to be supplied by another company or person at two-thirds of such fixed contract price.

**Sec. 14.**

All claims and demands that shall lawfully arise against the town shall be presented to and passed upon by the Board of Trustees, and if found to be correct shall be allowed and an order made that the same be paid, upon which the President of the Board shall draw his warrant,

to be countersigned by the Secretary, upon the Treasurer, in favor of the person or persons owning such allowed claim or claims, specifying therein the nature of the service performed, or for what the indebtedness accrued, and upon presentation of the warrant the Treasurer shall pay the amount thereof out of the Town Treasury, at the same time cancelling and filing the warrant or warrants so paid.

Sec. 25.

No member of the Board of Trustees, or other town officer, shall be directly or indirectly interested in any purchase or sale made for the benefit of the town, or in any contract made for the improvement of the town, or the streets, sidewalks, wharves, or levees thereof. For a violation of this section the member of the Board or officer shall be expelled from the Board or removed from office.

See note to Sec. 211, Sacramento Charter.

### CHAPTER III.

#### DOWNIEVILLE.

(Stats. 1863; 74.)

Sec. 8.

The Board of Trustees shall have power .....; provided, that said Board of Trustees shall not levy any license tax for the carrying on of any business, trade, or profession .....

Sec. 21.

No member of the Board of Trustees shall be, directly, or indirectly, interested in any contract, or sale of any thing belonging to said town, or any work or business ordered to be executed by authority of said Board. For a violation of this section, the member so offending shall be expelled from the Board, and forever after be excluded from holding any office in said corporation.

See note to Sec. 211, Sacramento Charter.

### CHAPTER IV.

#### EUREKA.

(Stats. 1895; 352.)

Sec. 29.

The meetings of the Council shall be held at the City Hall of the city; they shall be public, and a journal of its proceedings shall be kept by the City Clerk under its direction, and the ayes and noes shall be taken and en-

tered in the journal in the final action upon the granting of franchises, making of contracts, the passage of any ordinance, ordering work to be done or supplies furnished, the ordering of assessments for street improvements, or building of sewers, and in all other cases upon the call of any member.

Under this section, a record of approval of the purchase, showing who were present and that all present voted in favor of a motion and none against, is sufficient. *Goodyear Rubber Co. v. Eureka*, 135 Cal. 613.

**Sec. 40.**

No contract for supplies, printing, advertising, stationery, maintenance of prisoners, fuel, street sprinkling, street repairs, or for lighting streets, public buildings, places, or offices, or for the supplying of water for the use of the municipality, in any of its departments, shall be made for a longer period than one year; nor shall any contract be made to pay for gas, electric lights, or any other illuminating material, nor for the supplying of water for the use of the municipality, in any of its departments, at a higher rate or rates than is charged to any other consumer.

See Pol. Code, Sec. 4412, quoted at page 17.

**Sec. 42.**

All contracts must be in writing, executed in the name of the city and by an officer authorized to make the same. The form and legality of all contracts shall be submitted to and passed upon by the City Attorney. Every contract must be countersigned by the Finance Committee, numbered and registered in a book kept for that purpose.

This section must be read in connection with Sec. 167. *Goodyear Rubber Co. v. Eureka*, 135 Cal. 613. See note to Sec. 167.

**Sec. 43.**

The Council shall have power to pass ordinances:

Three. To establish and maintain a pole line system in the city; to compel all telegraph, telephone, electric light, and other companies, corporations, firms, associations, or persons using wires to place and maintain their wires thereon, and to regulate the use and fix the rental thereof, and provide for the collection of the same from all corporations, companies, firms, associations, and persons using the same.

Four. To regulate the erection of poles for or the laying of telegraph, telephone, and electric light wires in and upon the public streets, or upon or over buildings; the erecting of gas and electric lights therein; the numbering

of houses on the streets; the naming of the streets, avenues, public places, and thoroughfares; the use of the streets and sidewalks for sign-posts, awnings, awning posts, horse troughs, telegraph posts, telephone posts, electric light towers, electric light posts, and other purposes; the exhibition of banners, placards, or flags, in or across the streets, or from houses or other buildings; public cries, advertising, ringing of bells, steam whistles, and other noises; and the use of the streets and public places for foot passengers, animals, vehicles, cars, and locomotives.

Eighteen. To regulate the maintenance of acid works, slaughter houses, wash houses, laundries, tanneries, livery stables, offensive trades, and all other manufactories, works and business of every description that may endanger the public safety, health, or comfort, and to restrict the prosecution thereof to such fixed limits as may seem proper, or to exclude such works or business from the city.

See note to Sec. 27, Los Angeles Charter.

Twenty. To provide for the public printing, and to provide suitable rooms and buildings for the courts, boards and officers of the city, and such furniture, fuel, lights, books and stationery, and other supplies of any kind, as are or may be necessary for the convenient transaction of public business.

Twenty-three. To regulate or prohibit the use of steam boilers, the location of telegraph, telephone, and electric light poles and wires, awnings, and the construction of entrances to cellars and basements from sidewalks.

Twenty-nine. To regulate the quality, capacity, and location of water and gas pipes, mains, and fire plugs, and to provide for and regulate the construction and repair of hydrants, fire plugs, cisterns, pumps, and such other appliances as may be requisite to utilize the distribution of water and gas in the streets, public places, and public buildings.

Thirty-three. The grant of a franchise shall be a delegation of the right to condemn private property for public uses upon compensation being made therefor as provided by law.

Thirty-six. To provide for lighting the streets, alleys, public buildings, and public grounds, and to construct, purchase, lease, own, control, maintain, and operate a system of lighting by artificial gas, natural gas, electricity, or other means of illumination; *provided, however,* no such construction, lease, or purchase shall be made unless first authorized by a vote of two-thirds of the electors voting

at any general or special election at which the proposition may be submitted.

See note to Sec. 862, Municipal Corporations Act.

Forty-seven. To regulate the sale and use of gas and electric lights, and fix and determine the price of gas and electric lights, and the rent of gas and electric light meters within the city, and regulate the inspection thereof; and to regulate telephone service and the use of telephones within the city, and to fix and determine the charges for telephones, and telephone service, and connections; and the removal and placing under ground of any and all telegraphs, telephones, or electric wires, or upon the pole line established by the city.

Under the decision in *Contra Costa Water Co. v. Breed*, 139 Cal. 432 probably this section makes the provisions as to letting contracts to the lowest bidder inapplicable to gas companies, etc.

Fifty. To provide for licensing any or all business not prohibited by law; to establish and regulate the issuing and granting of municipal licenses, and the collection of license taxes.

See note to Sec. 2, subdiv. 13. Los Angeles Charter.

Sec. 86. Whenever the Council shall determine that the public interest requires the construction, or acquisition, or completion of any permanent municipal building, work, sewer, property, water, or light system, wharves, or improvements, the cost of which, in addition to the other expenditures of the city, will exceed the income and revenue provided for in any one year, they may by ordinance, submit a proposition to incur a debt for such purpose, and proceed therein as provided in section eighteen of article eleven of the Constitution of this State and the general law; provided, that such indebtedness shall not bear more than five per cent interest per annum, and that no bond issued therefor shall be sold for less than par value and to the highest bidder after advertising for sealed proposals therefor. Nor shall any such bonds be issued or sold during any one year in excess of the actual expenditures incurred for that year.

Sec. 89. The powers and duties of the Board of Education are as follows: 6. To provide for the School Department all necessary supplies, to wit: ink, pens, tablets, registers, blank reports, promotion cards, crayons, writing paper, rulers, pencils, diagrams, maps, globes, chemical and mechanical apparatus, and certificates of graduation, fuel and lights, and incur such other incidental expenses as may be necessary for the welfare of the Department.

Sec. 137. .... All electric light and power, telegraph, or telephone wires, erected or maintained in this city, shall be subject to the supervision and inspection of said Superintendent (of the Fire Department), and shall be located, laid, erected, and maintained only in such manner as may be approved by him, and so as not to endanger or interfere with the wires or apparatus of the fire alarm system.

Sec. 167. The City of Eureka shall not be and is not bound by any contract, or in any way liable thereon, unless the same be made in writing by order of the Council, and the draft thereof approved by the City Attorney and the Council, and the same ordered to be and be signed by the Mayor, or some other person authorized thereto in behalf of the city; but the Council, by an ordinance, may authorize any officer, committee or agent of the city to bind the city without a contract in writing for the payment of any sum of money not exceeding three hundred dollars. All bonds of any contractors with the city shall be approved by the Council.

This section undertakes to set forth the essentials of a contract binding upon the city. Countersigning, etc., as provided for in Sec. 42 are not among the essentials. *Goodyear Rubber Co. v. Eureka*, 135 Cal. 613.

Sec. 168. All claims and demands whatever against the City of Eureka, except interest coupons on bonds and bonds of the funded debt, shall be paid only on demands as herein provided for.

Sec. 169. Said demands, except demands payable out of the school fund and library fund, shall be presented to the Council on forms and blanks to be provided by the City Clerk, and shall be referred to its committee on finance. The said committee shall by endorsement thereon, approve or reject the same, in whole or in part. The Council shall then consider the said demands, and the actions of said committee thereon, and shall, if the same be just and legal, approve the same; or may, if it so determine, approve in part, or reject the whole. The action of the Council shall be indorsed thereon, with the date of such action, and certified by the signature of the President and City Clerk.

Sec. 170. Any such demand approved by the Council in whole or in part shall be delivered to the Mayor, who shall approve the same in whole or in part, or reject the

same, and indorse such approval or rejection thereon, with the date thereof; *provided*, that the Mayor shall have no power to approve a demand for a sum larger than the sum in which it is approved by the Council. If the Mayor approve only in part, and for a less amount than approved by the Council, or reject any such demand, he shall return the same to the City Clerk, with his objections in writing attached thereto.

Sec. 171. All demands approved by the Mayor for the same amount as approved by the Council shall by him be delivered to the City Clerk, who shall thereupon draw a warrant therefor upon the City Treasury, and which shall be signed by the Mayor and countersigned by the City Clerk.

Sec. 172. Any demands returned to the City Clerk with the objection of the Mayor, shall again be considered by the Council, and if it shall again be approved by the Council by the same vote, and taken, recorded, and indorsed in the same manner as hereinbefore required, the said objection shall be thereby overruled. Any demand the objection to which of the Mayor has been overruled, shall be delivered to the City Clerk, who shall draw a warrant therefor, as if the same had been approved by the Mayor; if the Mayor object only to a portion of such demand, and such objection thereto shall be sustained by the Council, the same shall thereby be delivered to the City Clerk for his action thereon as hereinbefore provided.

Sec. 173. No demand can be approved, audited, or paid unless it specify each several item, with the date and amount thereof, nor unless it be subscribed by the claimant or by his, her, or its agent, and sworn to before some officer authorized to administer oaths.

Sec. 174. No payment can be made from the city treasury, or out of the public funds of said city, unless the same be specially authorized by law or this charter, nor unless the demand which is paid be duly audited as in this charter provided. The term "audited," as used in this charter with reference to the demands upon the treasury, is to be understood to mean that said demands have been presented to, passed upon, and approved as herein provided, and this must appear upon the face of the paper representing the demand, or else it is not audited; *provided*, that the approval or rejection, in whole or in part, of a demand by the committee on finance of the Council is advisory only to the Council, and the rejection by said

committee of a demand, in whole or in part, does not of itself prevent its being duly audited.

Sec. 175. No demand upon the treasury shall be allowed in favor of any person or officer in any manner indebted thereto, without first deducting the amount of such indebtedness, .....

Sec. 179. No suit shall be brought upon any claim for money or damages against the City of Eureka, its Board of Education, or the Board of Trustees of the Eureka free library, until a demand for the same has been presented as herein provided, and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Nor shall suit be brought against said city upon any such claim or demand, if the same shall be in whole approved and audited as provided herein; *provided*, that nothing herein contained shall be construed so as to deprive the holder of any demand of his right to resort to a writ of mandate, or other proceeding against the said Council, or any Board or officer of said city, to compel it, or him, to act upon such demand or claim, or to pay the same when so audited.

Sec. 180.

All grants of franchises or privileges by the Council shall be awarded to the highest bidder in pursuance of the general laws of said State, nor shall any such franchises or privileges have any validity unless the person or persons to whom the same is made shall, within six months thereafter, actually and in good faith, and not colorably, commence the exercise or enjoyment of the same; *provided*, that where condemnation of property is necessary, condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of the franchise or privilege. Whenever any franchise or privilege shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and said franchise or privilege, or the part thereof, so in disuse, shall no longer be used or enjoyed. When in the exercise of any franchise or privilege, use has been made in any way of any street or alley of the city, such street or alley shall be put in good repair, and all the materials or obstructions which have been placed therein in the exercise of such franchise or privilege shall be removed therefrom, at the expense of the person or company who has held such franchise or privilege, whenever the franchise or privilege is abandoned or falls into disuse.

See general provisions on "Franchises," and notes, page 1.



## Sec. 182.

No member of the Council, and no officer or employe of the city, shall be or become directly or indirectly interested in, or with the performance of, any contract work, or business, or in the sale of any article, the expense, price, or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the city. Any member of the Council or any officer or employee of this city, violating the provisions of this section, or who shall be directly or indirectly interested in any franchise, right, or privilege granted by the city while he is such officer, member, or employee, unless the same shall devolve upon him by law, shall forfeit his office, and be forever disqualified from holding any position in the service of the city; and all contracts made, or rights or franchises granted, in violation of this section shall be absolutely void.

See note to Sec. 211, Sacramento Charter.

Sec. 190. No Chinese shall ever be employed, either directly or indirectly, on any work of the city, or in the performance of any contract or sub-contract of the city, except in punishment for crime. Nor shall any provisions, supplies, materials, or articles of Chinese manufacture or production ever be used or purchased by or furnished to the city.

## CHAPTER V.

## FELTON.

(Stats. 1877-78:185.)

## Sec. 8.

The Board of Trustees shall have power within the town limits:

Fourth.—To provide for the draining, grading, paving, improvement, and repairs, and lighting of streets, and the construction of sidewalks, drains, and sewers, and keeping the same in repairs, and the prevention and removal of any obstructions on the streets or sidewalks, or any public ground of the town.

Sixth.—To regulate the storage of gunpowder, tar, pitch, resin, and other extremely combustible materials.

## Sec. 11.

See note to Sec. 27, Los Angeles Charter.

All contracts for building, or repairing, or other work.

or furnishing material, which the Trustees are authorized to make for the town, shall be by them let to the lowest responsible bidder. Before making any contract for building, repairing, or any other work, or furnishing material, the Trustees shall first advertise for sealed proposals, for at least two weeks, in a newspaper published in the county, or by posting notices; and all proposals shall be opened in the presence of the bidders. No Trustee shall be interested in any contract, directly or indirectly.

See Pol. Code, Secs. 4458, 4459, page 20.

#### Sec. 21.

All demands that shall lawfully arise against the town, to be entitled to payment, shall be presented to and allowed for such amount as shall be deemed just by the Board of Trustees, and no bill, demand, or warrants shall be paid out of the Town Treasury, unless the same shall have been allowed by the Board of Trustees, and signed by the President of the Board and countersigned by the Clerk, and shall be paid by the Treasurer in the order of their issue.

### CHAPTER VI.

#### FRESNO.

(Stats. 1901:833)

#### Sec. 19.

No resolution granting any franchise, and no ordinance for any purpose shall be passed by the Board of Trustees on the day of its introduction, nor within five days thereafter nor until it has been published at least once in a newspaper published in the City of Fresno, or printed and posted in at least three public places therein, nor at any other than a regular meeting or an adjourned regular meeting, and no such resolution and no ordinance shall be passed without being first submitted to and its legal form approved in writing by the City Attorney.

See Sec. 95.

#### Sec. 25.

Except as otherwise herein provided, no contract for supplies, printing, advertising, stationery, maintenance of prisoners, water, fuel, street sprinkling, street repairs, or lighting streets, public buildings, places or offices, shall be made for a longer period than one year; nor shall any contract be made to pay for water, fuel, gas, electric lights, or any other illuminating material at a higher rate than is charged to any other customer.

See Pol. Code, Sec. 4412. Quoted at page 17.

Sec. 26.

No contract calling for the payment of more than one hundred dollars shall be effective unless authorized by a vote of the Board of Trustees; when any contract shall be so authorized it shall, before it becomes effective, be presented to the Mayor for his approval; and the Mayor shall return the same to the board or to the Clerk thereof, within five days after receiving it. If he sign the same it shall then become a contract, but if he disapprove it, he shall state his objections thereto in writing. If the proposed contract be not returned with such approval or disapproval within said five days, it shall become valid as if he had approved the same. When a proposed contract is returned without the approval of the Mayor, the Board of Trustees shall, within ten days thereafter, proceed to consider and vote on the same. If it be again authorized by an affirmative vote of not less than six members, it shall become a valid contract of the city, the same as if the Mayor had signed it, and not otherwise. The votes shall be taken by ayes and noes, and the result shall be entered in the minutes of the Board.

Sec. 28.

The Board of Trustees shall have power.

Fifth—To lay out, extend, alter or close streets and alleys; provide for the grading, draining, cleaning, repairing, widening, lighting, or otherwise permanently improving the same, and for the construction, repair, regulation and preservation of sidewalks, bridges, drains, curbs, gutters and sewers, and to prevent or remove obstructions thereto or to any part thereof, and to provide for the numbering of houses.

Sixth—To regulate or exclude the landing and storage of gunpowder and other combustible material.

See note to Sec. 27, Los Angeles Charter.

Eighth—To regulate the maintenance of acid works, slaughter-houses, wash-houses, laundries, tanneries, offensive trades, and all other manufactories, works, store houses and business of every description that may endanger the public safety, health or comfort, and to restrict the prosecution thereof to such fixed limits as may seem proper, or to exclude such works and business from the city.

Ninth— .....: also, to fix and collect a license tax upon all lawful professions, trades or business not heretofore specified.

See note to Sec. 2, Sub. 13, Los Angeles Charter.

Twenty-third—To provide for lighting the public streets, alleys, public buildings and public grounds, and to construct,

purchase, lease, own, control, maintain and operate a system of lighting by artificial gas, natural gas, electricity or other means of illumination.

Twenty-seventh—To regulate or prohibit the use of steam boilers, gas engines, the location of telegraph, telephone, electric light and other poles and wires, and the construction of entrances to cellars and basements from sidewalks.

Twenty-ninth—To regulate and control the construction and maintenance of, and to grant the right to construct and maintain, subject to control by the board, pipes, tubes, conduits, signal bells, warning signs, wires and other electric, telegraph and mechanical appliances, in, along, over, under and across the streets; *provided*, that said appliances shall be so constructed and placed as not to interfere with the fire alarm system, nor with the extinguishing of fires, nor with the free use of the sidewalks and streets.

Sec. 42. . . . . Every demand must, before it can be paid, be verified by the oath of the claimant, or some one in his behalf, and be presented to the Clerk for approval, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and if so out of what fund, and that there is sufficient money in such fund with which to pay the same. After such examination he shall approve or reject the claim, in whole or in part, and endorse on such demand his approval or rejection over his signature, together with the date thereof. If it be approved, the fund out of which it is to be paid shall be designated. If the claim be rejected, or any part of it, unless the party presenting it be willing to take in full of the entire demand the sum offered, the Clerk shall return it, with his reasons for rejecting it, to the Board or other body which originally authorized it; then if it be allowed by a majority vote of all the members of the Board, or other body authorizing it, and approved by the Mayor, it shall be audited in the same manner as if it had not been rejected; provided, the said Board or other body had the authority to make the expenditure out of which the claim arose. No demand upon the city treasury shall be considered, presented for action, or acted upon, allowed or approved, unless it specify on its face each several item composing it, and the amount and date thereof. Every demand shall be numbered and acted upon by the Clerk in the order of its presentation to him; and when allowed, either in whole or in part, the warrant thereto shall be numbered and entitled to payment out of the fund on which it is drawn in the same order as allowed. No demand upon the treasury shall be allowed by

the Clerk in favor of any officer or other person, or his assigns, who is in any manner indebted to the city, without first deducting therefrom the amount of such indebtedness; nor in favor of any officer or other person, or his assigns, having the collection, care, custody, or control of public funds, unless the accounts of such officer or other person have been presented, passed, approved and allowed as is or may be required by law; nor in favor of any officer or other person, or his assigns, who has neglected to make any oath required by law or ordinance, or other regulation of the Board of Trustees; nor in favor of any officer, or his assigns, who has failed, to the knowledge of the Clerk, to do any duty imposed upon him by law or ordinance, or other regulation of the Board of Trustees.

Sec. 90. It is hereby declared to be the purpose and intention of the people of the City of Fresno that such of its public utilities as shall be deemed to be for the best interest of the people shall be acquired and owned by the city. To this end it is hereby ordained:

Sec. 91. Whenever a petition, signed by the electors of the city equal in number to at least twenty-five per cent of all the votes cast at the last preceding general election, shall be presented to the Board of Trustees, setting forth that the signers thereof favor the acquisition by the city of any public utility, and requesting the Board of Trustees to prepare for submission to the electors of the city, as hereinafter provided, a proposition for the acquisition, by condemnation, construction or purchase, either of water works, gas works, electric light works, steam, water or electric power works, telephone lines, street railroad, or such other public utilities as the petition may designate, it shall be the duty of the Board of Trustees, within ninety days, to procure through the City Engineer, and any other sources, plans and estimates of the probable actual cost of the construction and completion of water works by the city, the Board of Trustees must procure and place on file plans and estimates of the cost of obtaining from all of the several available sources a sufficient and permanent supply of good, pure water for the city, in order that propositions for the acquisition, construction and completion thereof and incurring municipal indebtedness therefor may be submitted to the electors of the city.

Sec. 96. No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this article, which, together with the existing bonded indebtedness of the city, shall exceed at any one time ten per centum

of the assessed value of all real and personal property of the city in accordance with the last assessment roll.

Sec. 133.

In addition to the powers conferred, and duties prescribed by the general laws of the State, the Board of Education shall have power:

Fourth—To provide for the school department fuel and lights, water, printing, stationery, and all other necessary supplies, and incur such other incidental expenses as may be necessary for the welfare of the department, including the grading, fencing and improving of all school property.

Sec. 185. Such Trustees (Free Library), by a majority vote of all their members, to be recorded in the minutes with the ayes and noes at length, shall have power:

5. To order the drawing and payment upon properly authenticated vouchers, duly certified by the President and Secretary, of money from out of the library fund for any liability or expenditure herein authorized; and generally to do all that may be necessary to fully carry into effect the provisions of this act.

6. To fix the salaries of the librarian and assistants, to furnish and equip said rooms and buildings as may be necessary for such library and reading-room.

Sec. 186. The orders and demands of the Board of Free Library Trustees, when duly made and authenticated as above provided, shall be paid by the Treasurer of the city out of the library fund.

See Sec. 185, Subdiv. 5.

Sec. 255.

No officer or employe of the city shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by the city, or which shall be sold for taxes or assessment, or by virtue of legal process at the suit of the city. If any person in this section designated shall, during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the city, or any department or officer thereof, or in any franchise, right or privilege granted by the city, unless the same shall be devolved upon him by law, he shall forfeit his office, and be forever debarred and disqualified from being elected, appointed or employed in the service of the city; and all such contracts shall be void, and shall not be enforceable against the city.

See note to Sec. 211, Sacramento Charter.

Sec. 265. No Chinese shall ever be employed, either directly or indirectly, on any work of the city or in the performance of any contract or sub-contract of the city, except in punishment for crime.

Sec. 269. All claims against the city must contain a statement that every item in such claim has accrued within one year immediately preceding the filing of such claim, and no claim shall be valid against the city unless presented within one year from the date the article, labor, commodity, or services were furnished or contract performed: provided, however, that nothing herein contained shall deprive any person of the right to bring suit against the city upon any claim held against it, which has been rejected or refused payment by the Board of Trustees, if such claim was properly filed with the City Clerk within the time above specified.

## CHAPTER VII.

### GILROY.

(Stats. 1869-70:263)

Sec. 9.

The Common Council.....shall have power .....to license all and every kind of business authorized by law and transacted or carried on in said city; to fix the rates of license tax on all such business, which shall not exceed the amount fixed by law for State and county purposes, with fifty per cent added thereto .....

See note to Sec. 2, subdiv. 13, Los Angeles Charter.

Sec. 11.

All accounts and demands that shall lawfully arise against the city shall be submitted to the Common Council, and if found correct, shall be allowed, and an order made that the demand be paid; upon which, the Mayor shall draw his warrant, countersigned by the Clerk of the Council, upon the Treasurer, in favor of the owner or owners, specifying for what purpose and by what authority it is issued, and out of what fund it shall be paid; and the Treasurer shall pay the same out of the proper fund.

## CHAPTER VIII.

### GRASS VALLEY.

(Stats. 1893:629)

Art. I, Sec. 2.

Said city shall have perpetual succession; .....; may

levy and collect water rates, taxes on real and personal property, poll taxes, and licenses on all business therein .....; may determine and declare what are public uses and what property it is necessary to take for such purposes, and condemn the same under the provisions of section one thousand and one of Civil Code, and title seven, part three, of the Code of Civil Procedure of California, and such statutes of the State as relate to the exercise of the right of eminent domain, which are hereby made a part of this charter.

Art. II, Sec. 2.

The Board of Trustees of the city shall have power:

(f) To license, for the purpose of regulation and revenue, all and every kind of business authorized by law and transacted or carried on in this city, and all shows, exhibitions, and lawful games carried on therein; to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

(h) To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity, or other power, thereon, and the laying of gas and water pipes in the public streets, and vending gas and water in said city; and to permit the construction and maintenance of telegraph, electric, and telephone lines therein.

Art. II, Sec. 2.

The Board of Trustees may regulate or exclude the storing of gunpowder and other combustible and explosive materials within the city limits, and establish fire limits.

See note to Sec. 27, Los Angeles Charter.

Art. II, Sec. 4.

All demands against the city shall be presented to and audited by the Board of Trustees in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand the Mayor of the city shall draw a warrant upon the Treasurer for the same, which warrant shall be countersigned by the Clerk and shall specify for what purpose the same is drawn and out of what fund it is paid.

Art. VII, Sec. 1.

The Trustees shall have power to lay out, open and keep open, alter, grade, regulate, and repair the streets, alleys, and sidewalks of the city, and sprinkle and light the same.



CHAPTER IX.  
LOS ANGELES.

(Stats. 1889:455)

Sec. 2.

The said Corporation shall have the power:

Seven. To provide for supplying the city and its inhabitants with water and gas, or either, or other means of heat and illumination.

Thirteen. To license and regulate the carrying on of any and all professions, trades, callings, and occupations carried on within the limits of said city, and to fix the amount of license tax thereon to be paid by all persons engaged in such professions, trades, callings, or occupations, and provide the manner of enforcing the payment of the same; *provided*, that no discrimination shall be made between persons engaged in the same business otherwise than by proportioning the tax upon any business to the amount of business done; .....

This provision confers upon the municipality the authority to license all occupations and callings carried on within the city, for the purpose of revenue, as well as regulation. Ex parte Braun, 26 Cal. Dec. 834.

Sec. 16.

Six members of the Council shall constitute a quorum for the transaction of business, but no ordinance shall be passed or other act done, granting a franchise, making any contract, auditing any bill, ordering any work to be done or supplies to be furnished, disposing of or leasing the city property, ordering any assessment for street improvement, or building sewers, or any other act to be done involving the payment of money, or the incurring of debt by the city, unless two-thirds of the members of the whole Council vote in favor thereof. All other ordinances may be passed by vote of a majority of the whole Council.

Sec. 18.

No Councilman or other city officer shall be interested, directly or indirectly, in any contract to which the city is a party, or made by any officer of the city on behalf of the city. Any violation of this section shall be a misdemeanor, and upon conviction thereof, besides the penalty that may be imposed by a court of competent jurisdiction the Council shall declare the office vacant, and any person convicted of a violation of this section shall be forever disqualified from holding any office under this charter. Nor

shall any officer of the city be a surety on any bond given to the city, or to any person for the benefit of the city.

See note to Sec. 211, Sacramento charter.

Sec. 20.

The meetings of the Council shall be public, and a journal of its proceedings shall be kept by the Clerk under its direction, and the ayes and the noes shall be taken and entered in the journal in the final action upon the granting of franchises, making of contracts, auditing bills, ordering work to be done or supplies furnished, disposing of or leasing city property, the passage of any ordinance, the ordering of assessments for street improvements, or building of sewers, or upon any act that may involve the payment of money, or the incurring of a debt by the city, and upon the payment of the salaries of municipal officers, and in all other cases upon the call of any member.

Sec. 23.

It shall provide suitable rooms for the Police Court and officers, and the furniture, fuel, lights, and stationery necessary for the transaction of the business of the city.

Sec. 27.

It shall, by ordinance, regulate, and may prohibit, the keeping of gunpowder, acids, or other explosive, combustible, or inflammable material, within the limits of the city, or any specified part thereof.

A municipal ordinance making it unlawful to erect or maintain gas works, or to store gas, except within certain defined limits is valid. *Dobbins v. City of Los Angeles*, 139 Cal. 179.

Sec. 31.

The Council shall have power, by ordinance, to regulate and provide for lighting of streets, laying down gas pipes, and erection of lamp posts, electric towers, and other apparatus, and to regulate the sale and use of gas and electric light, and fix and determine the price of gas and electric light, and the rent of gas meters within the city, and regulate the inspection thereof; and to regulate telephone service and the use of telephones within the city, and to fix and determine the charges for telephones and telephone service and connections; and to prohibit or regulate the erection of poles for telegraph, telephone, or electric wire in the public grounds, streets, or alleys, and the placing of wire thereon; and to require the removal from the public grounds, streets, alleys, of any or all such poles, and the removal and placing under ground of any or all telegraph, telephone, or electric wires.

Under the decision in *Contra Costa Water Co. vs. Breed*,

139 Cal. 432, this provision probably makes the provisions as to letting contracts to the lowest bidder inapplicable to gas companies, etc.

Sec. 71.

The Board of Education ..... shall have sole power:

Four. To provide for the school department fuel and lights, water, blanks, blank books, printing and stationery; and to incur such other incidental expenses as may be deemed necessary by said board.

Sec. 207.

The City of Los Angeles shall not be, and is not, bound by any contract, or in any way liable thereon, unless the same is made in writing by order of the Council, the draft thereof approved by the Council, and the same ordered to be, and be, signed by the Mayor, or some other person authorized thereto, in behalf of the city; *provided*, that the approval of contracts by the City Attorney as required by the provisions of article four of this charter, shall be indorsed on the draft thereof before the Council shall have power to approve the same; but the Council, by an ordinance, may authorize any officer, committee, or agent of the city to bind the city without a contract in writing for the payment of any sum of money not exceeding three hundred dollars.

This section is constitutional and valid, and not in conflict with the provisions of the Civil Code concerning the manner of creating contracts, nor void under Sec. 6 of Art. XI. of the Constitution, which declares that such charters "shall be subject to and controlled by general laws." *Frick v. City of Los Angeles*, 115 Cal., 512.

For the construction of a somewhat similar provision in an earlier charter, see *Los Angeles Gas Co. v. Toberman*, 61 Cal. 199.

Sec. 208. All claims and demands whatever against the City of Los Angeles, except interest coupons on bonds and bonds of the funded debt, shall be paid only on demands as herein provided for.

Sec. 209. Said demands, except demands payable out of the school fund and library funds, shall be presented to the Council on forms and blanks to be provided by the City Clerk, and shall be referred to its committee on finance. The said committee shall, by indorsement thereon, approve or reject the same, in whole or in part. The Council shall then consider the said demands and the action of said committee thereon, and shall, if the same be

just and legal, approve the same; or may, if it so determine, approve in part or reject the whole. The action of the Council shall be indorsed thereon, with the date of such action, and certified by the signatures of the President and City Clerk; *provided*, that it shall require the votes of two-thirds of the members of the whole Council, under a call of the ayes and noes, and the votes spread upon the minutes, to approve any such demand in whole or in part.

Sec. 210. Any such demand approved by the Council in whole or in part shall be delivered to the Mayor, who shall approve the same in whole or in part, or reject the same, and indorse such approval or rejection thereon, with the date thereof; *provided* that the Mayor shall have no power to approve a demand for a sum larger than the sum in which it is approved by the Council. If the Mayor approve only in part, and for a less amount than approved by the Council, or reject any such demand, he shall return the same to the City Clerk, with his objections in writing attached thereto.

Sec. 211. All demands approved by the Mayor for the same amount as approved by the Council shall by him be delivered to the City Auditor, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the city treasury is authorized by law, and out of what fund. If he approve it, he shall endorse upon it the word "Approved," with the name of the fund out of which it is payable, with the date of such approval, and sign his name thereto; *provided*, that such approval by the City Auditor shall be valid only for such amount as shall have been approved by both the Council and the Mayor, unless the objections of the Mayor have been overruled by the Council, as provided in section two hundred and fourteen; and if, in the judgment of the City Auditor, such demand should be allowed only for a less amount than approved by the Council and the Mayor, or he shall reject the said demand, he shall return the same to the Council, with his objections in writing attached thereto.

Sec. 214. Any demand returned to the City Clerk, with the objections of either the Mayor or City Auditor, shall again be considered by the Council by the same vote, and taken and recorded, and indorsed in the same manner as required in section two hundred and nine hereof, the said objection shall be thereby overruled. Any demand returned to the Board of Education or the Board of Directors of the Los Angeles Public Library, with the objection of the city

auditor, shall again be considered by said board, and if such demand be again approved as required in the first instance, such objection of the city auditor shall be thereby overruled. Any demand, the objection to which of the Mayor has been overruled, shall be delivered to the City Auditor, who shall have the same power and perform the same duties in reference thereto as if the same had been approved by the Mayor; and any demand, the objection to which of the City Auditor has been overruled by the Council, Board of Education, or Board of Directors of the Los Angeles Public Library, as the case may be, shall be delivered to the City Auditor, who shall number and make a record of such demand, as in the case of demands approved by him.

Sec. 215. No demand can be approved by any board or officer, audited or paid, unless it specify each several item, with the date and amount thereof.

Sec. 216. No payment can be made from the city treasury, or out of the public funds of said city, unless the same be specially authorized by law or this charter, nor unless the demand which is paid be duly audited as in this charter provided. The term "audited", as used in this charter with reference to demands upon the treasury, is to be understood to mean that said demands have been presented to, passed upon, and approved by every officer and board of officers, as required by this charter, or the objections of the Mayor, or City Auditor, or both, as the case may be, have been overruled, as herein provided, and this must appear on the face of the paper representing the demand, or else it is not audited; *provided*, that the approval or rejection, in whole or in part, of a demand by the committee on finance of the Council is advisory only to the Council, and the rejection by said committee of a demand, in whole or in part, does not of itself prevent its being duly audited.

Sec. 217. No demand upon the treasury shall be allowed by the City Auditor in favor of any person or officer in any manner indebted thereto, without first deducting the amount of such indebtedness .....

Sec. 222. No suit shall be brought upon any claim for money or damages against the City of Los Angeles, its Board of Education, or the Board of Directors of the Los Angeles Public Library, until a demand for the same has been presented as herein provided, and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Nor shall suit be brought against said city upon any such claim or demand, if the same shall be

in whole approved and audited as provided herein; *provided*, that nothing herein contained shall be construed so as to deprive the holder of any demand of his right to resort to a writ of mandate, or other proceeding, against the said council or any board or officer of said city, to compel it or him to act upon such claim or demand, or to pay the same when so audited.

CHAPTER X.  
MARKLEEVILLE.  
(Stats. 1863-64:441)

Sec. 4.

The Trustees shall have power .....: provided, that said Board of Trustees shall not levy any license tax for the carrying on of any business, trade, or profession, .....

Sec. 7.

The indebtedness of said town shall never exceed the sum of \$3000.....

CHAPTER XI.  
MARYSVILLE.  
(Stats. 1875-76:149)

Marysville, Sec. 16.

The Common Council of said city shall not contract any debts or liabilities, by borrowing money, loaning the credit of the city, or otherwise, which, singly or in the aggregate, shall at any time exceed the sum of ten thousand dollars, exclusive of the levy debt and neither the Mayor nor any member of the Common Council shall be interested in any contract to which the city is a party.

Sec. 17.

Any contract made in violation of the provisions of Section sixteen of this act shall be void.

See note to Sec. 862, Municipal Corporations Act.

CHAPTER XII.  
NAPA.  
(Stats. 1893:642)

Sec. 17, (Am'd Stats., 1903:695)

The City Council shall have power:

Third.—To establish, build and repair bridges; to establish, lay out, alter, keep open, improve and repair streets,

sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle, oil and light the same; to remove all obstructions therefrom; to establish the grades thereof and enforce conformity thereto; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or upon any part thereof, and generally to manage and control all such bridges, streets, lanes, alleys, squares, highways and places; to establish, construct and maintain drains and sewers; to provide for the opening and closing and for the repair of drawbridges.

See note to Sec. 862, Municipal Corporations Act.

Fourth.—.....; to regulate or prohibit the placing of poles and suspending of telephone, telegraph, electric light or power or other wires, along or across any of the streets, alleys or public places of the city.

Fifth.—To provide the streets and city buildings with artificial light, and water necessary for their proper use; or to contract for the lighting the streets and public buildings of the city with gas, electricity or other artificial lights, and for sprinkling or oiling the improved streets of the city—any street that has been graded, curbed and graveled, macadamized or paved, being an improved street within the meaning of this clause—no such contract to be for a longer period than one year, and the same shall be let to the lowest bidder, only after notice calling for bids for such lighting, sprinkling or oiling has been given for at least five days in some daily newspaper published in the City of Napa, or posted for five days on or near the Council Chamber door; to construct, purchase, lease, own, control, maintain and operate, gas and electric or other works, within or without the corporate limits, for supplying the city and its inhabitants with light, heat and power; .....

See Pol. Code, Sec. 4412. Quoted at page 17.

See Pol. Code, Secs. 4458, 4459, page 20.

Seventh. To permit, under such restrictions as they may deem proper, the laying of railroad tracks, and the running of cars, drawn by horses, steam, electricity or other power thereon, and the laying of gas or water pipes in the public streets, and to permit the construction and maintenance of telegraph, telephone and electric light and power lines therein and they shall impose such restrictions and conditions upon the location and construction of gas, electric light and water works and pipes, wires and poles as shall secure the least possible public or private inconvenience; and they shall provide for the enforcement of such restric-

tions and conditions; and to regulate the use, and fix and determine the charges of telephone and telegraph service and connection with the city, and the use and sale of gas, electric and other lights in the city, to fix and determine the price thereof as well as the rental price of all gas and electric light meters within the city, and to provide for the inspection of such meters.

Under the decision in *Contra Costa Water Co. v. Breed*, 139 Cal. 432, probably this section makes the provisions as to letting contracts to the lowest bidder inapplicable to gas companies, etc.

Eighth. To grant franchises for a term not exceeding twenty-five years for the construction and operation of street railroads, telephone, telegraph and electric light or power lines, and water or gas pipes, pipe lines and mains, with the necessary connections for the constructions and operation of gas, electric light and power and water works, *provided*, that no exclusive franchise or privilege and no special privilege shall be granted for any purpose.

Ninth. To license for purposes of regulation and revenue, all and every kind of business transacted or carried on in said city, and all circuses, shows, exhibitions and lawful games carried on therein, to fix the rates of license upon the same, and to provide for the collection thereof, by suit or otherwise; to regulate, license or prohibit the construction and use of bill boards and signs adjacent to or near the streets, alleys or public places in the city.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

#### Sec. 18.

Unless otherwise provided in this charter, all contracts for work or supplies of any kind for one hundred dollars or more, shall be let to the lowest bidder, after notice given by posting for five days on or near the Council chamber door, or by publishing the same for five days in some newspaper in the city; and all sales of property belonging to the city shall be at public auction to the highest bidder, upon such terms and conditions as the Council may direct and after like notice given.

#### Sec. 19.

Whenever the Council shall judge it necessary for the city to take or damage private property for public use, the Council may direct proceedings to be taken by the City Attorney, under Title VII, Part III, of the Code of Civil Procedure of the State of California, to condemn the same.



## CHAPTER XIII.

## NEVADA CITY.

(Stats. 1877-78:221)

## Sec. 8.

The Board of Trustees shall have power to make such by-laws and ordinances, not repugnant to the Constitution and laws of the United States and this State, as they shall determine.

Fourth. To lay out, extend, and alter streets and alleys, provide for the grading, draining, cleaning, repairing, widening, lighting, or otherwise improving the same and for the construction, repair, regulation, and preservation of sidewalks, bridges, drains, curves, gutters, and sewers, and to prevent or remove obstructions thereto and to any part thereof.

See note to Sec. 862, Municipal Corporations Act.

Sixth—To regulate the storage of gunpowder and other combustible materials.

See note to Sec. 27, Los Angeles Charter.

Ninth. .... to fix and collect a license tax upon all professions, trades, or business not hereinbefore specified, having regard to the amount of business done by each person, firm, or association thus licensed.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Seventeenth—To examine and liquidate all accounts against the city, and to allow or reject the same or any part thereof, as it is found legal or illegal; provided, that no action shall be commenced or maintained against the city until the claim, account, or demand upon which it is founded shall have been first presented to, and either in whole or in part rejected by the Board of Trustees.

Eighteenth. .... To make contracts and agreements for the use and benefit of the city, such contracts and agreements in all cases to specify the fund or funds, out of which payment for the same is to be made; *provided*, that said Board of Trustees shall not contract any liabilities, either by borrowing money, loaning the credit of the city, or contracting debts which, singly or in the aggregate, shall exceed the sum of two thousand dollars.

## CHAPTER XIV.

## OAKLAND.

(Stats. 1889; 514)

## Sec. 20.

.....No bill for the grant of any franchise shall be put upon its final passage within 30 days after its introduction.

## Sec. 23

The action of the Council shall be by ordinance or resolution. To constitute an ordinance a bill must, before final action thereon, be passed to print and published with the ayes and noes for ten days; and in case of any amendment being thereafter made, must in like manner be republished as amended for not less than five days. No action providing for any specific improvement or the granting of any privilege or involving the lease, appropriations or disposition of public property or the expenditure of public money (except sums of less than \$500) or the levying of any tax or assessment, or the imposing of any new duty or penalty shall be taken except by ordinance.

See Pol. Code, Secs. 4458, 4459, page 20.

## Sec. 28.

No contract for lighting streets, public buildings, places or offices shall be made for a longer period than one year; nor shall any contract be made to pay for gas, electric lights or any other illuminating material at a higher rate than is charged to any other consumer.

See Pol. Code, Sec. 4412. Quoted at page 17.

## Sec. 30.

All contracts must be in writing, executed in the name of the city, and by an officer authorized to make the same. The form and legality of all contracts shall be submitted to, and passed upon by the City Attorney. Every contract must be countersigned by the Auditor, numbered and registered in a book kept for that purpose.

## Sec. 31.

The Council shall have power to pass ordinances:

Three. To regulate the laying of telegraph and telephone wires in or upon the public streets, erecting of gas and electric lights, therein ..... the use of streets and sidewalks for telegraph posts and other purposes .....

Five. To provide for and regulate street pavements, cross-walks, curbstones, grades, gutters, sewers, lighting and watering of the streets, avenues and public places.

Fourteen. To regulate or prohibit the sale, storage and use of powder, fireworks, dynamite, nitro-glycerine and other

explosives or combustible materials and substances, the places of their manufacture, storage and their transportation.

See note to Sec. 27, Los Angeles Charter.

Seventeen. To provide for the public printing, and to provide suitable rooms and buildings for the courts, boards, and officers of the city, and such furniture, fuel, lights, and stationery, and other supplies of any kind as are necessary for the convenient transaction of public business, all of which shall be provided by the Board of Public Works upon requisition of the Council, when the expenditure to be incurred may not exceed \$100. The Council shall, annually, at its first regular meeting in May, make such requisitions for whatever it shall judge necessary for the ensuing fiscal year, and shall make other requisitions from time to time as occasion may require. The requisitions shall state in clear and explicit terms the quantity and kind of supplies, material or work needed, and how, when, and where to be delivered or performed.

Twenty. To regulate or prohibit the use of steam boilers, the location of telegraph and telephone poles and wires, awnings, and the construction of entrances to cellars and basements from sidewalks.

Twenty-six. To regulate the quality, capacity and location of water and gas pipes, mains and fire-plugs, and to provide for and regulate the construction and repair of hydrants, fire-plugs, cisterns, pumps and such other appliances as may be requisite to utilize the distribution of water and gas in the streets, public places and public buildings.

Thirty-eight. To establish and regulate and granting of municipal licenses and the collection of license taxes.

Sec. 40.

..... Every demand must, before it can be paid, be presented to the Auditor to be approved, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law and out of what fund. After such examination he shall approve or reject the claim in whole or in part, and indorse on such demand his approval or rejection over his signature, together with the date thereof. If it is approved, the fund out of which it is to be paid shall be designated. If the claim is rejected, or any part of it, unless the party presenting it is willing to take in full of the entire demand the sum offered, the Auditor shall return it, with his reasons for rejecting it to the Council, Board or other body which originally authorized it; then, if it is allowed by a majority vote of all the members of the Council, or of the members of the Board

or other body authorizing it, and approved by the Mayor. it can be adopted in the same manner as if it had not been rejected; *provided*, the said Council, Board or other body had the authority to make the expenditure out of which the claim arose. No demand upon the City Treasury shall be considered, presented for action, or acted upon, allowed or approved, unless it specifies on its face each several item composing it, and the amount and date thereof.

The duties imposed upon the Auditor are judicial. He cannot be compelled by mandamus to draw a warrant for a claim which the charter authorizes him to reject or for one which the Council has no authority to allow. *Rooney v. Snow*, 131 Cal., 51.

#### Sec. 71.

The Board (of Public Works) shall have special charge, superintendence and control, subject to such ordinances as the Council may from time to time adopt of ..... of all lamps and lights for the lighting of streets, parks, public places and public buildings of the city, and of the erection of all posts for such lamps and lights, and of all public works and improvements hereafter to be done by the city.

The Board shall have exclusive authority to prescribe rules and grant permits in conformity with the ordinances of the city for .....; the erection of telegraph and telephone poles, and poles for electric lighting or other electrical purposes, and the laying of telegraph or telephone wires, and wires for electric lighting or other electrical purposes; .....; the laying down and taking up of gas, steam and water pipes, pneumatic or other tubes or pipes and sewers and drains, and determining the location thereof; .....

#### Sec. 116.

For all supplies, books, stationery, fuel, printing, goods, merchandise and all other materials and supplies for the public schools, or any of them, when the expenditure to be incurred on account of such matter may exceed one hundred dollars, the Board of Education shall make a requisition upon the Board of Public Works. Such requisition shall state in clear and explicit terms the quantity and kind of all articles needed and how, when and where to be delivered.

#### Sec. 129.

The school fund shall be used and applied by the Board of Education for the following purposes, to-wit:

Five. For lighting and heating the schoolrooms and the offices and rooms of the Superintendent and Board of Education.

Six. For supplying the schools with fuel, water, apparatus, .....

Sec. 185.

Unless otherwise provided in this charter, all contracts for work or supplies of any kind for more than one hundred dollars shall be let to the lowest bidder, after notice given by posting the same for ten days and by publishing the same for five days; and all sales or leases of property belonging to the city shall be by public auction to the highest bidder, upon such terms and conditions as the Council may by ordinance direct, and after like notice given.

Sec. 186.

No grant of any franchise by the Council shall have any validity or effect unless the person or persons to whom the same is made shall within six months thereafter, actually and in good faith, and not colorably, commence the exercise or enjoyment of the same, there being no legal impediment thereto; *provided*, that condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of a franchise, granted under subdivisions 28, 29, 30 and 31, Section 31, Article III. of this charter. Whenever any franchise shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and the said franchise or that part thereof, so in disuse, shall no longer be exercised or enjoyed; *provided*, that the disuse of any portion of the franchise, unless permission be before obtained of the Council, shall be deemed a forfeiture of the whole.

Sec. 189.

No member of the Council, and no officer of or employe of the city shall be or become, directly or indirectly interested in or with the performance of any contract, work or business, or in the sale of any article, the expense, price or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the city. Any member of the Council, officer or employe of this city violating the provisions of this section, or who shall be directly or indirectly interested in any franchise, right or privilege granted by the city while he

is such member, officer or employe, unless the same shall devolve upon him by law, shall forfeit his office and be forever disqualified from holding any position in the service of the city; and all contracts made, or right or franchise granted, in violation of this section shall be absolutely void.

See note to Sec. 211, Sacramento Charter.

## CHAPTER XV.

### PASADENA.

(Stats. 1901:885)

#### Art. I., Sec. 3.

The said city shall continue vested with all the property of every kind now belonging to it and shall have the power:

Ninth. To construct and maintain gas and electric works for supplying the city and its inhabitants with light, heat and power.

Twenty-third—To exercise the right of eminent domain for the purpose of acquiring real and personal property of every kind, including water, water rights, and water works, within or without the corporate limits, necessary or convenient for the use of the said city or its inhabitants.

#### Article VIII, Sec. 9.

All meetings of the City Council shall be public, and a journal of its proceedings shall be kept by the City Clerk under its directions, and the ayes and noes shall be taken and entered in the journal on the final action of the City Council in the granting of franchises, in the authorization of contracts, in the ordering of work to be done or supplies furnished, or in the ordering of assessments for street improvements, or the building of sewers, the passage of any ordinance, and in all other cases upon the call of any member.

#### Art. VIII, Sec. 10.

The City Council shall have power:

Fourth. To provide for the lighting of the streets and public buildings and places of the city and to regulate such lighting.

Fifth. To regulate the use and sale of gas, electric and other light in the city, to fix and determine the price thereof, as well as the rental price of all gas and electric light meters within the city, and to provide for the inspection of such meters.

See page 2.

Seventh. To cause the removal and placing underground of all telephone, telegraph, electric light or other wires within the city or within any designated portion thereof, and to regulate and prohibit the placing of poles and the suspending of wires along or across any of the streets, alleys and public places of the city.

Sixteenth. To regulate the construction of and the material used in all buildings, chimneys, stacks and other structures; ..... to prescribe..... the manner and materials used in wiring buildings or other structures for the use of electricity for lighting, power or other purposes, and the manner and materials used for piping buildings or other structures for the purpose of supplying the same with water and gas; to prohibit the construction of buildings and structures which do not conform to such regulations.

Eighteenth—To prevent the construction and to cause the removal of dangerous chimneys, fireplaces, hearths, stoves, stove-pipes, ovens, boilers, apparatus and machinery used in any building in the city; to regulate the carrying on of manufactories liable to cause fire; to prevent the depositing of ashes or the accumulation of shavings, rubbish, or any combustible material in unsafe places, and to make provisions to guard against fire.

Twenty-first—To regulate or prohibit the operation of blasts and blasting and the construction and operation of derricks, windlasses and other structures, apparatus and operations hazardous to life and property and to regulate the operation and provide for the inspection of freight and passenger elevators, boilers, engines, dynamos and other apparatus generating steam or electricity.

Twenty-sixth—To regulate or prohibit the loading or storing of gunpowder and other combustible and explosive materials in the city and the transportation of the same through the streets of the city.

See note to Sec. 27, Los Angeles Charter.

Thirty-first. To grant the right to erect or lay telegraph or telephone wires, to construct and operate street railroads, to lay gas or water pipes, to erect poles and wires, or lay conduits for transmitting electric energy for lighting or power purposes along or upon the public streets and highways of the city; *provided, however*, that all such rights and franchises shall be granted subject to all the restrictions and limitations in this charter contained, relating to the granting of franchises.

Art. X, Sec. 1. The City of Pasadena shall not be and is not bound by any contract, except as otherwise provided

herein, unless the same is made in writing by order of the Council, and signed by the Mayor or by some other person, in behalf of the city, authorized so to do by the Council; *provided*, that the approval of the form of the contract by the City Attorney shall be endorsed thereon before the Council, shall have power to order the same to be entered into in behalf of the city; but the Council, by an ordinance duly adopted, may authorize any officer, board or commission or agent of the city to bind the city without a contract in writing for the payment for supplies, labor or other valuable consideration furnished to the city in an amount not exceeding one hundred dollars.

Art. X., Sec. 8.

No contract for removing garbage, sweeping, sprinkling, or lighting the streets, public buildings, places or offices shall be made for a longer period than one year, nor shall any contract to pay for power, gas or electric light at a higher rate than the minimum price charged to any other consumer be valid.

See Pol. Code, Sec. 4412. Quoted at page 17.

Art. XI, Sec. 1. Except as otherwise provided in this charter all demands payable out of the treasury must, before they can be approved by the auditor or paid by the Treasurer, be approved by the Council and the Mayor.

Art. XI, Sec. 2. All claims and demands whatever against the City of Pasadena, except interest coupons on bonds, and bonds of the funded debt, shall be paid only on demands as herein provided for.

Art. XI, Sec. 3. Said demands, except demands payable out of the school fund and library fund, shall be presented to the Council on forms to be supplied by the City Clerk. The Council shall consider the said demands and shall, if the same be just and legal, approve the same, or may, if it so determine, approve in part or reject the whole. The action of the City Council shall be endorsed thereon, with the date of such action and certified by the signature of the City Clerk.

Art. XI, Sec. 4. Any such demand, approved by the Council in whole or in part, shall be delivered to the Mayor, who shall approve the same, in whole or in part, or reject the same and endorse such approval or rejection thereon, with the date of such action; *provided*, that the Mayor shall have no power to approve a demand for a sum larger than the sum for which it is approved by the Council. If the Mayor



approve only in part, or for a less amount than approved by the Council, or reject any such demand, he shall return the same to the City Clerk with his objections in writing attached thereto.

Art. XI, Sec. 5. Any demand approved by the Mayor for the same amount as approved by the Council must, before it can be paid, be presented to the Auditor to be approved, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and out of what fund. After such examination, he shall approve or reject the claim in whole or in part, and endorse on such demand his approval or rejection, over his signature, together with the date thereof. If it be approved, the fund out of which it is to be paid shall be designated. If the claim is rejected in whole or as to any part of it (unless the party presenting it is willing to accept and receipt for in full of the entire demand the sum offered), the Auditor shall return it, with his reasons for rejecting it, to the Council, Board or other body which originally authorized it. No demand upon the city treasury shall be considered presented for action, or acted upon, allowed or approved by the Council, or any board or commission of said city, unless it specifies on its face each item composing such demand; and the amount and the date thereof.

Art. XI, Sec. 9. Any demand returned to the Council, with the objections of either the Mayor or the Auditor, shall again be considered by the Council, and if it shall again be approved by the Council and endorsed and certified as required by section three of this article, the said objection shall thereby be overruled. Any demand, the objection of the Mayor to which has been overruled, shall be delivered to the City Auditor, who shall have the same power and perform the same duties in reference thereto as if the same had been approved by the Mayor. Any demand, the objection of the City Auditor to which has been overruled by the City Council, ..... shall be delivered to the City Auditor, who shall number and make a record of such demand as in the case of demands approved by him.

Art. XI, Sec. 10. No demand can be approved by any board or officer, audited or paid, unless it specify each several item with the date and amount thereof.

Art. XI, Sec. 11. No payment can be made from the city treasury, or out of the public funds of said city, unless the same be specially

authorized by law or this charter, nor unless the demand which is paid be duly audited as in this charter provided. The term "audited" as used in this charter, with reference to demands upon the treasury, is to be understood to mean that said demands have been presented to, passed upon and approved by every officer and board of officers, as required by this charter, or the objections of the Mayor or City Auditor, or both, as the case may be, have been overruled, as herein provided, and this must appear upon the face of the paper representing the demand, or else it is not audited.

Art. XIII, Sec. 1.

No exclusive franchise or privilege and no special privilege shall be granted for any purpose.

Art. XIII, Sec. 2.

No application for a franchise shall be considered by the Council unless the application shall be accompanied with the sum of three hundred dollars, which sum shall be returned to the applicant in the event that the City Council shall determine that neither the public necessity nor the public interest requires the granting of the franchise. If, however, the City Council shall determine that the public necessity or the public interest requires the granting of the franchise, then the said sum of three hundred dollars shall be retained by the city in full for all costs of advertising and other preliminary expenses connected with the offering for sale of such franchise and the granting of the same.

Art. XIII, Sec. 3.

In granting a franchise the City Council shall impose such lawful conditions, restrictions and limitations as may best subserve the public interest and welfare.

Art. XIII, Sec. 4.

In the granting of franchises the city and City Council shall be governed by the general law of the State in force at the time, which is hereby declared to be, and is hereby made, a part of this charter, so far as it is or may be applicable to the class of cities to which this municipality may belong.

Art. XX, Sec. 2.

No Councilman or other city officer or employe shall be interested, directly or indirectly, in any contract in which the city is a party or which is made by any officer of the city in behalf of the city. And any such contract in which any such Coun-

cilman, officer or employe is interested shall be void. Any violation of this section by any such Councilman, officer or employe shall be a misdemeanor and be punishable as such, and upon conviction the office of such Councilman, officer or employe shall be declared vacant by the Council. And such vacancy shall be filled as is herein provided for the filling of other vacancies.

See note to Sec. 211, Sacramento Charter.

## CHAPTER XVI.

### SACRAMENTO.

(Stats. 1893:547)

#### Sec. 22.

No contract for supplies, printing, advertising, stationery, maintenance of prisoners, fuel, street sprinkling, street repairs, or lighting streets, public buildings, places, or offices, shall be made for a longer period than one year; nor shall any contract be made to pay for fuel, gas, electric lights, or any other illuminating material, at a higher rate than is charged to any other consumer.

See Pol. Code, Sec. 4412. Quoted, page 17.

#### Sec. 23.

No contract calling for the payment of more than one hundred dollars shall be effective unless authorized by vote of the Board of Trustees. When any contract shall be so authorized it shall, before it becomes effective, be presented to the Mayor for his approval; and the Mayor shall return the same to the Board, or to the Clerk thereof, within five days after receiving it. If he shall sign the same, it shall then become a contract; but if he shall disapprove it, he shall state his objections thereto in writing. If the proposed contract is not returned with such approval or disapproval within said five days, it shall become valid as if he had approved the same. When a proposed contract is returned without the approval of the Mayor, the Board of Trustees shall, within ten days thereafter, proceed to consider and vote on the same. If it is again authorized by an affirmative vote of not less than six members, it shall become a valid contract of the city the same as if the Mayor had signed it, and not otherwise. The votes shall be taken by yeas and nays, and the result shall be entered in the minutes of the Board.

#### Sec. 25.

The Board of Trustees shall have power:

Seventh—To regulate or exclude the landing and storage of gunpowder and other combustible materials.

See note to Sec. 27, Los Angeles Charter.

Tenth. ....; to fix and collect a license tax on ..... manufacturers ..... whose principal place of business is in said city, or who shall have an agency therein; .....; also, to fix and collect a license tax upon all lawful professions, trades, or business, not heretofore specified, having regard in such case to the amount of business done by each person, firm, or association thus licensed.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Twenty-seventh. To provide for lighting the streets, alleys, public buildings, and public grounds, and to construct, purchase, lease, own, control, maintain, and operate a system of lighting by artificial gas, natural gas, electricity, or other means of illumination.

Thirty-first. To regulate or prohibit the use of steam boilers, the location of telegraph, telephone, electric light, and other poles and wires, and the construction of entrances to cellars and basements from sidewalks.

Sec. 37.

..... Every demand must, before it can be paid, be verified by the oath of the claimant or some one in his behalf, and be presented to the Auditor to be approved, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the Treasury of the city is authorized by law, and if so, out of what fund, and that there is sufficient money in such fund with which to pay the same. After such examination, he shall approve or reject the claim in whole or in part, and indorse on such demand his approval or rejection over his signature, together with the date thereof. If it is approved, the fund out of which it is to be paid shall be designated. If the claim is rejected, or any part of it, unless the party presenting it is willing to take in full of the entire demand the sum offered, the Auditor shall return it, with his reasons for rejecting it, to the Board or other body which originally authorized it; then if it is allowed by a majority vote of all the members of the Board or other body authorizing it, and approved by the Mayor, it shall be audited in the same manner as if it had not been rejected; *provided*, the said Board or other body had the authority to make the expenditure out of which the claim arose. No demand upon the City Treasury shall be considered, presented for action, or acted upon, allowed, or approved, unless it specifies on its face each several item

composing it, and the amount and date thereof..... No demand upon the Treasury shall be allowed by the Auditor in favor of any officer or other person, or any of his assigns, who is in any manner indebted to the city, without first deducting the amount of such indebtedness.

Sec 152 ..... All electric light or power, telegraph or telephone wires, erected or maintained in this city, shall be subject to the supervision and inspection of said Superintendent (of the Fire Department), and shall be located, laid, erected, and maintained only in such manner as may be approved by him, and so as not to endanger or interfere with the wires or apparatus of the fire-alarm system.

Sec. 209.

No grant of any franchise by the Board of Trustees shall have any validity unless the person or persons to whom the same is made shall, within six months thereafter, actually and in good faith, and not colorably, commence the exercise or enjoyment of the same; *provided*, that where condemnation of property is necessary, condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of the franchise. Whenever any franchise shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and said franchise, or the part thereof so in disuse, shall no longer be exercised or enjoyed. When, in the exercise of any franchise, use has been made in any way of any street or alley of the city, such street or alley shall be put in good repair, and all the materials and obstructions which have been placed therein in the exercise of such franchise shall be removed therefrom at the expense of the person or company who has held such franchise, whenever the franchise is abandoned or falls into disuse.

Sec. 211.

No member of the Board of Trustees, and no officer or employee of the city, shall be or become directly or indirectly interested in or with the performance of any contract work or business, or in the sale of any article the expense, price, or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the city. Any member of the Board, or any officer or employee of this city, violating the

provisions of this section, or who shall be directly or indirectly interested in any franchise, right, or privilege granted by the city, while he is such member, officer, or employe, unless the same shall devolve upon him by law, shall forfeit his office, and be forever disqualified from holding any position in the service of the city; and all contracts made, or rights or franchises granted, in violation of this section shall be absolutely void.

This is in substance a declaration of the common law. Under Sec. 629 of the Civil Code, a gas company is bound to furnish gas to the city. Therefore, it can collect therefor, although the Mayor of the city is a stockholder and the President of the company. *Capital Gas Co. v. Young*. 109 Cal. 140.

Sec. 221. No Chinese shall ever be employed, either directly or indirectly, on any work of the city, or in the performance of any contract or sub-contract of the city, except in punishment for crime. Nor shall any provisions, supplies, materials, or articles of Chinese manufacture or production ever be used or purchased by or furnished to the city.

## CHAPTER XVII.

### SALINAS CITY.

(Stats. 1903:600)

#### Art. I, Sec. 1.

The municipal corporation now existing, known as Salinas City, shall remain and continue a body politic and corporate, in name and in fact, by said name of Salinas City, and by that name shall have perpetual succession;....; may purchase, construct, or otherwise acquire water works, artificial light works, street railroads and other public utilities and manage and operate the same; may determine and declare what are public uses and when the necessity exists of condemning land therefor and what land it is necessary to condemn; .....

#### Art. II, Sec. 8.

The Council shall cause a journal of its proceeding to be kept by the City Clerk, under its directions, and the vote shall be taken by "ayes" and "noes" and entered in the journal upon the passing of any ordinance, or the granting of any franchise, and in all other cases upon the demand of one member of the Council.

#### Art. II, Sec. 13.

No ordinance granting a franchise shall be put upon its

final passage within less than ten days after its introduction, nor at any time other than a regular meeting.

Art. II, Sec. 19.

Subject to the provisions, limitations and restrictions in this charter contained, the Council shall have power:

Two. To acquire, by purchase or condemnation, such property as may be required for public use.

Four. To lay out, open, widen, extend, alter and close streets, avenues, alleys, lanes, roads, courts and public places within said city, and to fix and alter their official grades; to grade, pave, curb, sidewalk, sewer, drain and otherwise improve the same; to provide for the repair, cleaning, watering and lighting thereof; to manage and control such streets, roads, highways and public places and to regulate the use thereof; to regulate or prohibit the placing or maintaining of trees, hitching posts, signs, awnings and other obstructions therein, and to remove obstructions therefrom.

Seventeen. To regulate or prohibit the manufacture, keeping, storage and use of powder, dynamite, gun-cotton, nitro-glycerine, fire-works and other explosive substances and materials.

See note to Sec. 27, Los Angeles Charter.

Twenty-one. To license, for the purpose of regulation and revenue, all and every kind of business, not prohibited by law and transacted and carried on in said city, and all shows, exhibitions and lawful games carried on therein; and to fix the license tax upon the same, and to provide for the collection thereof.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Twenty-eight. To provide for the erection, maintenance and repair of all municipal buildings, and for the cleaning and lighting thereof.

Twenty-nine. To provide suitable rooms and buildings for the courts, boards and officers of the city and supply the same with fuel, light, and such furniture, books, stationery and other supplies as may be required for the convenient transaction of public business.

Forty-eight. To grant the right to construct and maintain and to regulate the construction and maintenance of all pipes, tubes, conduits, wires and other electric, telegraph and mechanical apparatus in, along, over, under and across all public streets, and highways, within the city; to require all telegraph, telephone and electric light wires to be placed under ground; and to regulate the mode of wiring houses, buildings and structures for telegraph, telephone, electric light, electric power and all other electric service.

**Art. V, Sec. 7.**

In addition to the powers conferred and the duties prescribed by the laws of this State, the Board of Education shall have power:

Eight. To provide the school department with all necessary supplies, including registers, stationery, blanks, maps, chemicals, mechanical apparatus, light, fuel and all other articles and things necessary for carrying on the public schools and maintaining the department.

Nine. To build, alter, repair, rent and provide school houses; to furnish the same with proper school furniture and apparatus and to provide for cleaning and lighting the same.

**Art. V, Sec. 14.**

All contracts for building school houses and all contracts for altering, repairing, painting and furnishing the same, when the expense thereof exceeds one hundred dollars, and all contracts for supplying fuel, stationery, school supplies, etc., shall be let to the lowest responsible bidder, after due public notice given by publication for at least ten days in a daily newspaper, published and circulated in Salinas City. The person to which any such contract is awarded may be required to give security to the city for the faithful performance thereof, in such reasonable sum as the Board of Education may fix and with such sureties as said Board may approve. The Board shall at all times have the right to reject any and all bids for such contracts.

**Art. XI, Sec. 3.** All claims and demands whatever against Salinas City, except salaries, interest coupons on bonds and bonds of the funded debt, shall be paid only on claims as herein provided.

**Art. XI, Sec. 4.** All such claims (except those payable out of the school fund or library fund) shall be itemized and made out on blank forms adopted by the Council and furnished by the Clerk for that purpose, verified by the affidavit of the claimant or some person in his behalf, and filed with the City Clerk; and until a claim is so made out, verified and filed, it shall not be considered by the Council. At its regular monthly meeting and at such other times as it may desire, the Council shall examine and allow, in whole or in part, or reject all such claims, then on file with the City Clerk. The action of the Council respecting each claim shall be forthwith endorsed thereon and certified by the signature of the Mayor.



Art. XI, Sec. 5. Immediately upon the allowance of any claim or demand by the Council, the City Clerk shall draw and countersign a warrant in favor of the claimant against the proper fund of the city treasury for the amount for which such claim was allowed, and, after such warrant has been signed by the Mayor, deliver it to the person entitled thereto.

Art. XI, Sec. 6. No suit or action shall be brought or maintained against Salinas City upon any claim or demand for money or damages until a claim therefor has been presented, as in this charter required, and rejected, either in whole or in part, nor shall suit be brought against the city upon any such claim or demand which has been presented and allowed in full; but if rejected in part, suit may be brought to recover the whole of such claim.

Art. XIII, Sec. 1.

No exclusive franchise or privilege shall be granted by Salinas City for any purpose. In granting franchises the Council shall be governed by the general laws of the State in force at the time, but in each instance it may impose such additional lawful conditions, limitations and restrictions as, in its opinion, subserve the public interest and welfare.

Art. XIII, Sec. 2. The Council may, after being duly authorized thereto by the vote of two-thirds of the electors of Salinas City voting at a special election called for that purpose lease, purchase, construct, acquire, own, control, manage and operate street railroads within said city, or works for supplying said city and its inhabitants with water, gas, electric or other artificial light, electric power, or local telegraph or telephone service; together with the land, water-rights, reservoirs, aqueducts, buildings, machinery, pipes, wires and other articles and appliances necessary or incidental to such works.

Art. XIII, Sec. 3. The Council may at any time, and upon receiving a petition therefor signed by a number of voters equal to forty per cent of the votes cast at the last regular municipal election, must call a special election at which shall be submitted to the qualified electors of Salinas City the proposition of acquiring any or all of the public utilities mentioned in this article, and in case the cost of any thereof is too large to be paid out of the ordinary annual income and revenue of said city

the incurring of a bonded indebtedness to pay such cost. Such special elections shall be conducted as herein provided and all bonded indebtedness shall be incurred and paid in the manner provided by the general laws of the state in force at the time.

Art. XIII, Sec. 5.

Until Salinas City shall acquire, own and control works for supplying itself and its inhabitants with artificial light, the Council shall, annually, in the month of February of each year, fix the rates that shall be charged and collected by every person, company, association or corporation furnishing artificial light to said city or its inhabitants for such artificial light so furnished and the ordinance fixing such rates shall take effect on the first day of July after its passage and shall remain in effect for one year thereafter. The rates fixed shall be equal and uniform, and there shall be no discrimination made between persons, or between persons and corporations, or as to such light furnished for domestic or municipal purposes. The Council shall by ordinance provide for obtaining reports and statements from persons, companies, associations and corporations furnishing artificial light to said city or its inhabitants as to the cost and value of the property used in such business, their gross receipts and necessary expenses and such other information as it may require to enable it to fix such rates. Any person, company, association or corporation charging or attempting to collect rates in excess of those fixed by the Council for artificial light furnished to the city or any inhabitant thereof shall forfeit to Salinas City a penalty of not less than one hundred nor more than one thousand dollars for each such illegal charge or attempt to collect an illegal rate to be recovered by suit in any court of competent jurisdiction.

Art. XVI, Sec. 3.

No Councilman or other officer or employe of Salinas City shall be or become, directly or indirectly, interested in any contract to which said city or any officer thereof in his official capacity is a party; or in any work or the sale of any article, the cost or price of which is payable from the City Treasury; or in the sale, purchase or lease of any real estate or other property sold or leased to or by said city; and any such contract, sale, purchase or lease in which any such officer or employe is interested, in violation of the provisions of this section, shall be void as to said city. Any officer or employe of said city violating any of the provisions of this section shall be guilty of a

misdemeanor and upon conviction thereof shall be punished in the manner prescribed by law and in addition thereto shall forfeit his office or employment.

See note to Sec. 211, Sacramento charter.

## CHAPTER XVIII.

### SAN BUENAVENTURA.

(Stats. 1875-76:534)

#### Sec. 14.

The Board of Trustees shall have power ..... to impose licenses on the various kinds of business carried on within the corporate limits of the town that are or may be licensed for State and county purposes, to fix the class and amount of the same .....

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

#### Sec. 17.

The Trustees shall have power to provide for the opening, lighting, and keeping in good repair, streets and alleys, building of sidewalks, cultivation and care of plazas, and such other improvements as may be necessary for the general welfare of the town; .....

See note to Sec. 862, Municipal Corporations Act.

#### Sec. 20.

The Board of Trustees of said town shall have no power to borrow money nor contract any indebtedness for the ordinary purposes of town government or improvement, which shall exceed in the aggregate the amount of the assessment of taxes for such year, but in case it is deemed necessary, for the purpose of opening or lighting streets, building a Town Hall, establishing a permanent system of sewerage or other permanent improvements, they may issue bonds not to exceed in the aggregate two per cent of the valuation of the town property, according to last preceding assessment roll; *provided, however*, that no bonds shall be issued, except upon the result of an election called for that purpose, wherein a majority of the citizens of the town shall have voted for issuing such bonds, nor shall any bonds issued by said Town Trustees bear a higher rate of interest than ten per cent per annum, run for a longer period of time than ten years, or be sold for less than eighty-five per cent of their par value in gold coin.

#### Sec. 25.

Nothing in this Act shall be construed to extend an exclusive water, or other franchise, to any portion of the addition herein made to said town.

## CHAPTER XIX.

## SAN DIEGO.

(Stats. 1889:644)

## Art. II, Chap. II, Sec. I.

Subject to the provisions, limitations, and restrictions in this charter contained, the Common Council shall have power to pass ordinances:

Three. To regulate and control the use of the streets and sidewalks for signs, sign posts, awnings, awning posts, drinking fountains, horse troughs, urinals, all posts for the suspension of electric wires; for traffic and sale therein; for exhibiting banners, placards, or flags in or across the same, or from houses or other buildings, and for all other purposes.

Five. To regulate the opening of street surfaces for the laying of gas or water mains, of telegraph or telephone wires; for the building and repair of sewers; for the erection of gas or electric lights, or for any other use or purpose.

Thirteen. To provide for lighting the streets, squares, parks, and public places, buildings and offices; and for enclosing, improving and regulating public grounds.

See note to Sec. 862, Municipal Corporations Act.

Sixteen. To regulate the manufacture, transportation, sale, disposition, storage, and use of firearms, firecrackers, fireworks, petroleum, and all explosive and combustible materials and substances; the manufacture of acids, and the maintenance of acid works, slaughter houses, brick kilns, tanneries, laundries, foundries, steam boilers, and all other manufactories, works, and occupations of every description that may affect the public safety, health, or comfort, and to exclude them from certain limits.

See Note to Sec. 27, Los Angeles Charter

Twenty-four. To provide suitable buildings, rooms, or accommodations for all courts, departments, boards, and officers, together with all necessary attendants, furniture, fuel, lights, and stationery for the convenient transaction of business.

Thirty. To regulate the quality, capacity, and location of water and gas mains and fire plugs, and provide for and regulate the construction and repair of hydrants, fire plugs, cisterns, and pumps, and such other appliances as may be used in the distribution of water or gas in the streets, public places, and public buildings.

Thirty-one. To fix and determine the rate of compensation to be charged and collected by any person, company, or corporation in this city for the use of telephones; and determine the maximum rate of compensation to be charged by any person, company, or corporation supplying gas, electric, or other illuminating power in said city, and in making such rate it shall be upon the basis of yielding at least seven per cent interest on the amount of the capital invested.

Under the decision of *Contra Costa Water Co. v. Breed*, 139 Cal. 432, it is probable that this section makes the provisions as to letting contracts to the lowest bidder not applicable to contracts with gas companies, etc.

Forty-four. To open, close, straighten or widen any street, road, or highway; to open and lay out any new street or highway through public or private property, upon making compensation to all persons whose property may be taken therefor, or injuriously affected thereby, upon the conditions and in the manner by law and in this charter provided; and in like manner to establish and change the grade of any street, road, or highway. But no compensation shall be allowed for damage to gas or water pipes, railway tracks, telegraph or telephone posts or wires, or other property or thing laid above, along, in, or under any street, highway, park, place, or other public property.

Art. II, Chap. II, Sec. 6.

Every grant of a franchise, right, or privilege shall be subject to the right of the Common Council at any time thereafter to repeal, change, or modify the said grant, and every ordinance making such grant shall contain a reservation of the right of the Common Council to repeal, amend, or modify said ordinance.

Art. II, Chap II, Sec. 7.

No exclusive franchise or privilege shall be granted for laying pipes or other conduits under any of the public streets or through any public place for the use of any telegraph, telephone, or other mode of transmitting intelligence or electric or any motive power.

Art. II, Chap II, Sec. 14.

All ordinances or resolutions, appropriating money or for the incurring of indebtedness or liability against the Treasury, introduced in either board of the Common Council, or in the Board of Education, or other department or authority, must, before being passed, be presented to the Auditor, and

until he certifies in writing upon such ordinance or resolution that such appropriation can be made or indebtedness incurred without the violation of any of the provisions of this charter, no further action shall be had upon the same.

This provision is constitutional. A resolution purporting to incur an indebtedness or create a liability without such certificate, is void and ineffectual to create a contract. *Pollok v. San Diego*, 118 Cal., 593.

Article III, Chap. 3, Sec. 2. Every demand must, before it can be paid, be presented to the Auditor to be approved, who shall not approve the same unless the money is legally due and remains unpaid; and the payment thereof from the treasury of the city is authorized by law, and out of the proper fund. No demand upon the treasury shall be allowed by the Auditor in favor of any officer or other person, or any of their assigns, who is in any manner indebted to the city without first deducting therefrom the amount of such indebtedness, .....

Art. V, Chap. 1, Sec. 8. The Board (of Public Works) shall have special charge, superintendence, and control, subject to such ordinances as the Common Council may from time to time adopt, of the harbor and waterfront, and of all streets, sidewalks, highways, roads, bridges, wharves, parks, and public places belonging to the city, or dedicated to public use, and of the improvement and repair thereof; of all sewers, drains, cesspools, and the work pertaining thereto, or to the drainage of the city; of the cleaning of streets, and of all repairs upon all accepted streets; of the construction and repair of all public buildings, and the making of all public improvements for the city or under its authority, and of the repairs of such improvements; of all lamps and lights for the lighting of the streets, parks, public places, and public buildings of the city, and of the erection of all posts for such lamps and lights, and of all public works and improvements hereafter to be done by the city. The Board shall have exclusive authority to prescribe rules and grant permits in conformity with the ordinances of the city, for.....the erection of telegraph and telephone poles, and poles for electric lighting or other electrical purposes, and to restrict the number of such poles to one set on each side of the streets of the city; the construction of drains and sewers; the laying down and taking up of gas, steam, and water pipes, pneumatic or other tubes and pipes, and sewers and drains, and determining the location thereof, and to prescribe such rules as shall prevent unnecessary damage to the

streets by reason of the laying of said pipes, tubes, and sewers, and which shall prevent the interference of the different systems .....

Art. VI, Chap. II, Sec. I.

There is hereby created an Auditing Committee, which shall consist of the Mayor, President of the Board of Aldermen, President of the Board of Delegates, City Attorney, and Auditor. The Mayor shall be Chairman of this Committee, the Auditor shall be Secretary of the same, but in the absence of either at meetings of the Committee, a temporary Chairman and Secretary can be chosen by the Committee to act. The Auditing Committee shall hold stated meetings once in each month, and can adjourn from time to time. It shall be the duty of this Committee to examine allow and order paid, or reject and disallow all claims, demands, and bills of whatever nature (except monthly salaries of city officers, as fixed by this charter), which may be presented against the city and the Auditor shall not draw a warrant for any bill unless the same has been approved by a majority of the whole Auditing Committee. Three members of the Committee shall constitute a quorum for the transaction of business, but a less number can meet and adjourn from time to time.

Art. VI, Chap. II, Sec. 2.

All demands, bills, and claims which may arise against the city, including the payroll of all employees of the city, whether under regular monthly salary or not (except salaries of city officers as fixed by this charter), shall be duly verified as hereinafter provided and be filed with the Secretary of the Auditing Committee, who shall file and number the same in the order of presentation, and refer the same to the Auditing Committee for action, whose duty it shall be to allow or reject the same, in whole or in part, and if allowed designate the particular funds from which they are to be paid, and indorse upon the back of each bill the date of its allowance or rejection, the amount allowed for, and also the section of the charter, number of ordinance, number of contract, resolution, or order under which the said bill or demand was authorized or contracted for. These indorsements to be verified by the signatures of the Chairman and Secretary of the Committee.

Art. VI, Chap. II, Sec. 3.

All demands, bills, and claims against said city shall be made out in the following form and subscribed and sworn

to before the Auditor, or some officer authorized to administer oaths, to wit:

City of San Diego,

To ..... Dr.

Assigned to .....

	Dollars.	Cts.
To sundries as per items attached. ....		

State of California,  
County of San Diego. } ss.  
City of San Diego.

....., being duly sworn, says: That the foregoing account is a correct, legal, and true claim against said city for the full amount for which the same is presented, and the items therein contained were furnished to said city; that the said amount, accrued as set forth therein, is due, and no part of the same has been paid.

Subscribed and sworn to before me, this ..... day of ....., 18.....

....., Auditor.  
....., Deputy.

Which bill must be accompanied by a detailed statement of items, which shall be attached thereto and made a part thereof.

Art. VI, Chap. II, Sec. 9.

The following funds are hereby established:

8. "Street Light Fund," from which must be paid all sums for lighting the city by electric light, gas, etc.

Art. VI, Chap. II, Sec. 13. (Am'd Stats. 1901; 882.)

Whenever the Common Council shall determine that the public interest or necessity demands the acquisition, construction or completion of any municipal buildings, bridges, sewers, water works, water rights, reservoir sites, rights of way for pipes, aqueducts, flumes, or other conduits, or any other property or appliances suitable or proper for supplying said city or its inhabitants with water, or other municipal improvements, the cost of which will be too great to be paid out of the ordinary annual income and revenue of said city, the said Common Council may contract bonded indebted-



ness for said purposes, or any of them, and the proceedings taken for incurring such indebtedness shall be in accordance with the mode and manner prescribed by the provisions of the general laws of the State of California, relative to incurring bonded indebtedness by municipalities, in force at the time such proceedings are taken. Said Common Council may also contract bonded indebtedness for any other purpose authorized by this charter or the general law of the State of California; *provided*, that the proceedings taken therefor shall be in accordance with the provisions of the general law in force at the time such proceedings are taken.

Art. VII, Sec. 5.

The Board (of Education) shall have sole power:

Fifth. To provide for the school department, water, fuel, lights, blanks, blank books, printing, stationery, and other necessary aids and conveniences as are demanded to meet the educational requirements of the city.

Art. X, Sec. 3.

No member of either Board of the Common Council, and no officer or employe of the city shall be or become, directly or indirectly, interested in, or in the performance of any contract, work, or business with or for the city; or in the purchase or lease of any real estate, or other property, belonging to or taken by said city, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of said city. If any person in this section designated shall, during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for said city, or any department or office thereof, or in any franchise, right, or privilege granted by said city, unless the same shall be devolved upon him by law, he shall forfeit his office, and be forever after debarred and disqualified from being elected, appointed, or employed in the service of said city; and all such contracts shall be void, and shall not be enforceable against said city.

See note to Sec. 211, Sacramento Charter.

Art. X, Sec. 15.

No privilege shall be granted that suspends or violates any ordinance, except by the affirmative vote of two-thirds of all the members of each Board.

CHAPTER XX.  
SAN FRANCISCO  
(Stats. 1899:242)

Art. II, Chap. I, Sec. 12.

When a bill is put upon its final passage in the Board and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be acted upon before the expiration of twenty-four hours after adjournment. No bill for the grant of any franchise shall be put upon its final passage within ninety days after its introduction, and no franchise shall be renewed before one year prior to its expiration. Every ordinance shall, after amendment, be laid over for one week before its final passage.

City Attorney Lane of San Francisco has interpreted this to allow a franchise to be passed to print at one meeting, and finally passed at the next. The bill must be introduced, however, ninety days before final passage.

See opinions of City Atty. of S. F., 1899-1902, p. 437.

Art. II, Chap. I, Sec. 13.

Every bill or resolution providing for any specific improvement, or the granting of any franchise or privilege, or involving the lease, appropriation or disposition of public property, or the expenditure of public money, except sums less than two hundred dollars, or levying any tax or assessment, and every ordinance providing for the imposition of a new duty or penalty, shall, after its introduction, be published in the official newspaper, with the ayes and noes, for at least five successive days (Sundays and legal holidays excepted) before final action upon the same. If such bill be amended, the bill as amended shall be advertised for a like period before final action thereon. But in case of great necessity the officers and heads of departments may, with the consent of the Mayor, expend such sums of money, not to exceed two hundred dollars, as shall be necessary to meet the requirements of such necessity.

See Pol. Code, Secs. 4458, 4459, page 20.

San Francisco, Art. II, Chap. I, Sec. 19.

Except as provided in Chapter III, of Article III, of this charter all demands payable out of the treasury must, before they can be approved by the Auditor or paid by the Treasurer, be first approved by the Board of Supervisors. All demands for more than two hundred dollars shall be presented to the Mayor for his approval, in the manner hereinbefore provided for the passage of bills and resolutions. All resolutions directing the payment of money other than the salaries or wages, when the amount exceeds five hundred

dollars, shall be published for five successive days (Sundays and legal holidays excepted) in the official newspaper.

Art. II, Chap. I, Sec. 21.

Except as otherwise provided in the Constitution of the State, or as otherwise provided in this charter, every ordinance, involving the granting by the City and County of any franchise for the supply of light or water, or for the lease or sale of any public utility, or for the purchase of land of more than fifty thousand dollars in value, must be submitted to the vote of the electors of the City and County at the election next ensuing after the adoption of such ordinance.

The tickets used at such election shall contain the words "FOR THE ORDINANCE" (stating the nature of the proposed ordinance) and "AGAINST THE ORDINANCE" (stating the nature of the proposed ordinance).

If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the Board of Election Commissioners shall, within thirty days from the time of such election, proclaim such fact; and upon such proclamation such ordinance shall have the same force and effect as an ordinance passed by the Supervisors and approved by the Mayor.

No such franchise, or lease or sale of any public utility, or purchase of land, shall be of any force or effect except it be made by ordinance, and such ordinance be adopted by the people, as in this section provided.

Art. II, Chap. II, Sec. 1.

Subject to the provisions, limitations and restrictions in this charter contained, the Board of Supervisors shall have power:

Two. Except as otherwise provided in this charter, or in the Constitution of the State of California, to regulate and control for any and every purpose, the use of the streets, highways, public thoroughfares, public places, alleys, and sidewalks of the City and County.

Thirteen. Except as otherwise provided in this charter, to regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic and telegraphic service to the City and County, and to acquire, regulate and control any and all appliances for the sprinkling and cleaning of the streets of the City and County, and for flushing the sewers therein.

Fourteen. To fix and determine by ordinance in the month of February of each year, to take effect on the first day of July thereafter, the rates or compensation to be collected by any person, company or corporation in the City and County, for the use of water, heat, light or power, sup-

plied to the City and County, or to the inhabitants thereof, and to prescribe the quality of the service.

See *C. C. W. Co. v. Breed*, 139 Cal. 432 and note p. 95.

Anything in the last two sections or in this charter inconsistent with the act quoted on page 11 et seq. by so much supersedes that act.

Fifteen. To impose license taxes and to provide for the collection thereof; but no license taxes shall be imposed upon any person who, at any fixed place of business in the City and County, sells or manufactures goods wares or merchandise, except such as require permits from the Board of Police Commissioners as provided in this charter.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Art. II, Chap. II, Sec. 4.

The Finance Committee shall have power, and it shall be its duty, to examine the records and examine and expert the books of account of all persons, companies or corporations that are required to pay a portion of their gross receipts into the treasury; and shall likewise, as an aid to the fixing of rates for furnishing water and light to the City and County and to the inhabitants thereof, have like power, and it shall be its duty, to examine the records and examine and expert the books of account of any and all persons, companies or corporations so furnishing water or light.....

Art. II, Chap. II, Sec. 5.

No exclusive franchise or privilege shall be granted for laying pipes, wires or conduits.

Art. II, Chap. II, Sec. 7.

The Supervisors shall have no power to grant franchises or privileges to erect poles or wires for transmitting electric power or for lighting purposes along or upon any public street or highway of the City and County except upon all the conditions and in the manner including competitive bidding and payment of a percentage of gross receipts, hereinbefore set out and upon the further condition that the Board shall at all times have the right to regulate the charges of any person, company, or corporation using, enjoying, or possessing such franchise or privilege. ....

Any ordinance granting a franchise or authorizing a lease under the provisions of this section shall be in force from and after the expiration of thirty days from the date of its signature by the Mayor, or from and after the expiration of thirty days from the date of its passage by the Supervisors over his objections, unless within said thirty days a petition signed by a number of the electors of the City and County equal to fifteen per centum of the votes cast at the last preceding election shall have been filed with the Supervisors, asking

that said ordinance be submitted to the vote of the people. In such case said ordinance shall be submitted at the next election to the vote of the electors of the City and County, and unless said ordinance shall at said election receive in its favor a majority of the votes cast thereon it shall have no force or effect for any purpose. If a majority of the votes be in favor of such ordinance, the Board of Election Commissioners shall, on the conclusion of the canvass of the vote thereon, proclaim such fact, and upon such proclamation said ordinance shall have full force and effect as of the date aforesaid. Said petition and submission shall be made in accordance with the provisions of section twenty of Chapter I of this Article.

See Art. II, Chap. II, Sec. 6, S. F. Charter.

City Attorney Lane advised that the provision for bidding is unconstitutional as applied to lighting companies, but constitutional as applied to electric power companies. Opinions of City Atty. of S. F., 1899-1902, page 521. But see note to Art. XI., Sec. 19 of the Constitution, quoted under "Franchises."

Art. II, Chap. III, Sec. 5.

All contracts provided for in this chapter must be in writing and executed in the name of the City and County by the Mayor. All such contracts must be countersigned by the Clerk of the Supervisors and registered by number and date in a book kept by him for that purpose. When a contractor fails to enter into a contract awarded to him or to perform the same, new bids must be invited, and a contract awarded as provided herein in the first instance. When the Supervisors believe that the prices bid are too high, or that bidders have combined to prevent competition, or that the public interests will be subserved thereby, they may reject any and all bids, and cause the notice for proposals to be re-advertised.

Art. II, Chap. III, Sec. 6.

No contract for lighting streets, public buildings, places or offices, shall be made for a longer period than one year, nor shall any contract to pay for gas, electric light or any illuminating material at a higher rate than the minimum price charged to any other consumer, be valid. Demands for lighting public buildings shall be presented monthly to the Board or department using or having charge thereof, and shall specify the amount of gas, electric light or illuminating material consumed in such building during the month.

See Pol. Code, Sec. 4412. Quoted at page 17.

City Attorney Lane of San Francisco advised the Supervisors that notwithstanding the fixing of rates for gas and electric light by their body, it is, under the char-

ter, the duty of the Board each year to call for bids for such service to be supplied to the City and County. Opinions of City Atty. of S. F., 1899-1902, page 197.

The minimum price actually charged to consumers at the time of making the contract should govern. Opinions of City Atty. of S. F., 1899-1902, page 654.

Art. III, Chap. IV, Sec. 1.

The salaries and compensation of all officers, including policemen and employees of all classes, and all teachers in the public schools and others employed at fixed wages, shall be payable monthly. Any demand upon the treasury accruing under this charter shall not be paid, but shall be forever barred by limitation of time, unless the same be presented for payment, properly audited, within one month after such demand became due and payable; or, if it be a demand which must be passed and approved by the Supervisors or Board of Education, or by any other Board, then within one month after the first regular meeting of the proper Board held next after the demand accrued; or, unless the Supervisors shall, within six months after the demand accrued as aforesaid, on a careful examination of the facts, resolve that the same is in all respects just and legal, and the presentation of it, as above required, was not in the power either of the original party interested or his agent, or the present holder; in which case they may by ordinance revive such claim; but it shall be barred in the same manner unless presented for payment within twenty days thereafter. No valid demand arising subsequent to the claim which may be revived as aforesaid shall be rendered invalid by reason of such revival exhausting the fund out of which subsequent claims might otherwise be paid. Such revived claim shall take rank as of the day of its revival.

S. F. Charter, Art. IV., Chap. II., Sec. 7.

Every demand upon the treasurer, except the salary of the Auditor, must, before it can be paid, be presented to the Auditor, who shall satisfy himself whether the money is legally due, and its payment authorized by law, and against what appropriation payable, and out of what fund it is payable. If he allow it, he shall endorse upon it the word "Allowed," with the name of the fund out of which it is payable and the date of such allowance, and sign his name thereto. No demand shall be approved, allowed, audited or paid unless it specify each special item, date and amount composing it, and refer by chapter and section to the provisions of this charter authorizing the same.

Art. VI, Chap. I, Sec. 9.

The Board of Public Works shall have charge, superin-

tendence and control, under such ordinances as may from time to time be adopted by the Supervisors:

One. Of all public ways, streets, avenues, lanes, alleys, places, courts, roads, highways, and boulevards now opened or which may hereafter be opened in the City and County; of the manner of their use; and of all work done upon, over or under the same; and herein particularly the Board shall have exclusive authority to prescribe rules and grant permits, in conformity with the ordinances of the Supervisors. for ..... the erection of telegraph and telephone poles, and poles for electric lighting, and the laying under the surface of the streets or sidewalks of telegraph or telephone wires, and wires for electric lighting and power; the construction of drains and sewers; the laying down and taking up of gas, steam and water pipes, pneumatic or other tubes or pipes, and sewers and drains, and determine the location thereof: ..... and without such permission in writing from said Board no person shall do any of the acts in this section enumerated; but nothing in this section shall be so construed as to give said Board the power to grant permits for or allow the permanent encroachment upon any sidewalk of any structure.

Three. Of the cleaning and sprinkling of all public streets, avenues, alleys, places, courts, roads, highways and boulevards, and the lighting of the same, and the lighting of the parks, squares and other public places and public buildings;

City Attorney Lane advised that the parks and squares are to be cleaned and sprinkled by the Board of Park Commissioners and lighted by the Board of Public Works. Opinions of City Atty. of S. F., 1899-1903, page 264.

Nine. When at any time any person, company or corporation desires to have opened or torn up the roadway of any street, lane, alley, place or court in the City and County for any purpose, a written application shall be made to the Board of Public Works for permission to do so. The Board shall thereupon make an estimate of the expense of opening or tearing up such street, lane, alley, place or court and of restoring the same to as good a condition as it was in before said opening or tearing up. Such person, company or corporation must thereupon deposit the amount of such estimate with the Board of Public Works which shall thereupon pay the same into the General Fund.

The Board shall thereupon proceed to open or tear up said street, lane, alley, place or court as in said application requested, and shall at the proper time restore such street,

lane, alley, place or court to as good a condition as it was in before said opening or tearing up. Contracts for the doing of such work by the board may be let by it in the manner provided in this chapter, or the work may, at the option of the Board, be done by days' labor.

If the expense of such work has been more than the aforesaid estimate, the person, company or corporation shall be indebted to the City and County for such balance; and the same shall constitute a lien upon the property of such person, company or corporation. Said lien shall remain in force until such balance has been paid, or until the lien shall be legally discharged. Said lien may be enforced by suit brought by the City and County in accordance with the provisions of the Code of Civil Procedure of the State of California. If the expense of such work has been less than the aforesaid estimate, then the surplus shall constitute a claim in favor of such person, company or corporation, against the City and County, and as such shall be presented, approved and paid as other claims.

In the opinion of the City Attorney this does not apply to gas, electric light and water companies, their rights being governed by Art. XI., Sec. 19 of the Constitution. Opinions of City Atty. of S. F., 1899-1902, page 222.

It does not apply to cases of emergency. (Opinions of City Atty. of S. F., 1899-1902, page 132). nor to street work, (Opinions of City Atty. of S. F., 1899-1902, page 222.)

Art. IX, Chap. V, Sec. 4.

The Fire Marshal shall be charged with the enforcement of all laws and ordinances relating to the storage, sale and use of oils, combustible materials and explosives, together with the investigation of the cause of all fires. In all cases where there is reason to believe that fires are the result of crime, or that crime has been committed in connection therewith, the Fire Marshal must report the same in writing to the District Attorney. The Fire Marshal shall also have the care of, and may sell, subject to the orders of the board of Fire Commissioners, all property saved from fire for which no owner can be found, and at once pay the amount realized from any such sale into the treasury. He shall exercise the functions of a police officer.

Art. IX, Chap. 9, Sec. 6.

The Department of Electricity is also charged with the duty of enforcing all the rules, regulations, orders and requirements made by ordinance of the Supervisors in regard to the inspection and supervision of electrical wires and appliances, and the currents for furnishing light, heat or power in and upon streets and buildings in the City and County.



Art. XII, Sec. 1. (Article amended, Stats. 1903; 591). Whenever the Board of Supervisors by ordinance, as hereinafter provided shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the City and County, or whenever the electors shall petition the Board of Supervisors, as provided in Section 3 of this article, for the acquisition of any public utility or utilities, the Board of Supervisors must procure from the Board of Public Works, through the City Engineer, plans and estimates of the cost of original construction and completion, by the City and County of such public utility or utilities.

Art. XII, Sec. 2. Before submitting propositions to the electors for the acquisition by original construction or condemnation of public utilities, the Board of Supervisors must solicit and consider offers for the sale to the City and County of existing utilities, in order that the electors may have the benefit of acquiring the same at the lowest possible cost thereof.

Art. XII, Sec. 3. Whenever a petition or petitions, each signed by electors of the city and county equal in number to fifteen per centum of all the votes cast in the city and county at the last preceding general election, shall be presented to the Board of Supervisors, setting forth that the signers of such petition or petitions favor the acquisition of the public utility or utilities therein named, it shall be the duty of the Clerk of the Board of Supervisors to immediately proceed to examine and verify the signatures to such petition or petitions, and to certify the result of such examination to the Board of Supervisors. If the required number of signatures be found to be genuine, the Clerk shall transmit to the Mayor an authentic copy of such petition or petitions, without the signatures thereto.

Upon receiving a certificate of the Clerk that the petition or petitions contain the required number of genuine signatures, it shall be the duty of the Board of Supervisors to procure, in the manner specified in Section 1 of this article, plans and estimates of the cost of original construction and completion of each public utility named in such petition or petitions.

Thereafter, the Board of Supervisors shall formulate for submission to the electors of the city and county at a special election called for the purpose, a separate proposition for the acquisition of each public utility named in such petition or petitions.

The Mayor shall also have the right to formulate and submit to the electors, at such special election, a proposition for the acquisition of each public utility named in such petition or petitions, separate from the proposition therefor formulated by the Board of Supervisors.

All propositions formulated under the provision of this section shall be completed within six months after the filing of such petition or petitions.

Nothing in this section shall be so construed as to prohibit the Board of Supervisors from responding to the aforesaid petition or petitions of the electors requesting the acquisition of any public utility or utilities by proceeding at once, without the submission of proposition to the electors as aforesaid, to pass an ordinance declaring its determination, as provided in Section 5 of this article, to acquire the same and from proceeding thereafter to secure the acquisition thereof, as hereinafter provided.

Art. XII, Sec. 4. At the next regular meeting after the completion of the proposition or propositions for the acquisition of the public utility or utilities named in such petition or petitions, the Board of Supervisors by ordinance, as hereinafter in Section 6 provided, shall call a special election at which the propositions of the Board of Supervisors and of the Mayor, if he formulate any, shall be submitted to the electors of the city and county.

When the cost of any public utility or utilities named in such petition or petitions can be paid out of the annual revenues of the city and county in addition to the other necessary expenses thereof, each proposition therefor, submitted to the electors, shall specify the cost of the utility therein proposed for acquisition by the city and county, the proposed method and manner of payment thereof, and the Board of Supervisors shall submit therein to the electors the question whether the same shall be acquired upon such terms. A majority of the electors voting at such special election shall be necessary to accept such proposition.

At as early a date after the determination of the result of such special election as the Board of Supervisors shall deem for the best interests of the city and county, it shall undertake proceedings and enter into such negotiations and contracts as may be necessary for the acquisition of any public utility or utilities named in any proposition or propositions accepted by a majority of the electors voting at such special election.

If, however, the cost of any public utility or utilities, named in any petition or petitions of the electors, shall so far exceed the annual revenues of the city and county, in addition to the other necessary expenses thereof, as to render it necessary to incur a municipal bonded indebtedness therefor, each proposition for the acquisition of such public utility or utilities shall specify the amount of the bonded indebtedness necessary therefor and the rate of interest thereon, and the Board of Supervisors shall submit to the electors, at such special election, the question whether such bonded indebtedness shall be incurred. At least two-thirds of the electors voting at such special election shall be necessary to secure the acquisition of such public utility or utilities and to warrant the issuance of municipal bonds therefor.

Art. XII, Sec. 5. Whenever the Board of Supervisors shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities, it shall specifically declare such determination by an ordinance, which shall also direct the board of public works to procure and file plans and estimates of the cost of original construction and completion of such public utility or utilities. Such ordinance shall be published for at least two weeks in the official newspaper.

When the cost of such public utilities, or any of them, can be paid out of the annual revenues of the city and county in addition to the other necessary expenses thereof, the Board of Supervisors shall, as soon after the filing of the plans and estimates of cost thereof as it may deem for the best interests of the city and county, enter into such negotiations and contracts as may be necessary for the acquisition of the same.

If, however, the cost of such public utilities, or any of them, shall so far exceed the annual revenues of the city and county in addition to the other necessary expenses thereof, as to render it necessary to incur a municipal bonded indebtedness therefor, the Board of Supervisors shall, at any regular meeting held within eight weeks after the filing of the plans and estimates of cost thereof, by ordinance, as hereinafter in Section 6 of this article provided, call a special election, at which shall be submitted to the electors a proposition or propositions for the acquisition of such public utility or utilities. Such proposition shall specify the amount of the bonded indebtedness necessary for the acquisition of the utility or utilities therein named and the rate of interest thereon, and the Board of Super-

visors shall submit to the electors the question or questions whether such bonded indebtedness shall be incurred. At least two-thirds of the electors voting at such special election shall be necessary to warrant the issuance of municipal bonds for the acquisition of such public utilities or any of them.

Art. XII, Sec. 6. Whenever, under the provisions of this article, it shall be necessary to call a special election for the purpose of submitting to the electors a proposition or propositions for the acquisition of public utilities, the Board of Supervisors shall pass an ordinance calling such special election for such purpose.

At such special election all propositions for the acquisition of public utilities, formulated under the provision of this article, may be submitted to the electors of the city and county. No question except the acquisition of public utilities and the incurring of municipal indebtedness therefor shall be submitted at such special election.

Art. XIII, Sec. 7. The ordinance calling such special election shall set forth the purposes for which the election is called, the estimated cost of each utility proposed for acquisition by the city and county, the proposed method and manner of payment thereof, and shall fix a day on which such special election shall be held, the manner of holding such election and the manner of voting for or against each proposition thereat submitted to the electors; and if it shall be necessary to incur a municipal indebtedness for any utility or utilities therein proposed for acquisition by the city and county, the ordinance shall specify the objects and purposes for which such indebtedness is proposed to be incurred and that bonds of the city and county shall issue for the payment of the cost of such utility or utilities, as in such ordinance set forth (if the proposition or propositions therefor be accepted by the electors). Such election shall be held as provided by law for holding elections in the city and county.

Art. XII, Sec. 8. Such ordinance shall be published daily for at least ten days in the official newspaper. At the expiration of said ten days the Supervisors shall cause to be published daily for not less than two weeks in the official newspaper a notice of such special election. Such notice shall specify the purpose for which the indebtedness is to be incurred, the number and character of the bonds to be is-

sued, the rate of interest to be paid, and the amount of tax levy to be made for the payment thereof.

Art. XII, Sec. 9. No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this article which, together with the existing bonded indebtedness of the city and county, shall exceed at any one time fifteen per centum of the assessed value of all real and personal property in the city and county.

Art. XII, Sec. 13. A neglect or refusal on the part of the Supervisors to comply with the provisions of this article shall constitute cause for the removal from office of any member or members of the Board guilty of such neglect or refusal.

Art. XVI, Sec. 6.

No Supervisor and no officer or employe of the City and County, shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by the City and County, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the City and County. If any person in this section designated shall, during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the City and County, or any department or officer thereof, or in any franchise, right or privilege granted by the City and County, unless the same shall be devolved upon him by law, he shall forfeit his office, and be forever after debarred and disqualified from being elected, appointed or employed in the service of the City and County; and all such contracts shall be void, and shall not be enforceable against the City and County.

See note to Sec. 211, Sacramento Charter.

In the opinion of the City Attorney, when a contract has been entered into by a firm, no member of which is at the time of making such contract an officer or employee of the municipality, the contract is not subsequently avoided by the entrance of a member of such firm into the municipal employ. Opinions of City Atty. of S. F., 1899-1902, page 610.

## CHAPTER XXI.

## SAN JOSE.

(Stats. 1897:593)

## Article III, Chap. I, Sec. 1.

.....The ayes and noes shall be taken.....in all matters concerning the granting of franchises, making of contracts, etc.....

## Article III, Chap. II, Sec. 1.

The Mayor and Common Council shall have power:

First. To make and enforce all such local, police, sanitary, and other regulations as pertain to municipal affairs, and for this purpose may define misdemeanors committed within the city limits, or on lands under the jurisdiction of the city, and provide for their punishment, although the offense constituting the misdemeanor be also a violation of the penal laws of the State.

Third. To impose municipal licenses either for revenue or for regulation.

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Ninth—To prohibit the storage of gunpowder, oils, or other combustible substances in quantity.

See note to Sec. 27, Los Angeles Charter.

Seventeenth. To grant franchises, but there must be exacted for each franchise granted a certified check in an amount to be determined by the Common Council, to be forfeited to the city upon the failure to begin and finish the work required by the franchise.

Article V, Chap. 2, Sec. 1. Every claim and demand against the city, except bonds, coupons for interest, claims payable from the school fund, or from funds not controlled by the Mayor and Common Council shall be verified and filed with the City Clerk, specifying in detail the goods furnished, the service performed, or other basis of the claim, and by what authority the goods were furnished or the service performed, giving date of the same, and the amount of the claim.

Art. V, Chap. 2, Sec. 2. After allowance by the Common Council, the City Clerk shall present such claim or demand to the Mayor who, within five days thereafter, shall endorse thereon or annex thereto his approval or disapproval and return it to the City Clerk. The Mayor may approve a claim in part but where a claim is disapproved in whole or in part, the

reasons of the Mayor must be given in full. The Common Council, by the affirmative votes of four of its members, may allow a claim or such portion of a claim as the Mayor has disapproved, but not otherwise.

Art. V, Chap. 2, Sec. 3. Upon the allowance of any claim a warrant shall be drawn on the city treasury in favor of the person to whom the allowance was made, specifying for what the warrant is drawn, the fund out of which it is to be paid, and that it can be paid only from the money actually collected and in the fund. The warrant shall be signed by the Mayor and countersigned by the City Clerk.

Sec. 5. To all claims there shall be attached, before filing, the affidavit of the claimant that the supplies or materials for which the charge is made have been furnished in quantity and quality, according to contract, and this the service has been rendered as ordered.

Sec. 6. No claim for commodities furnished or service performed shall be valid unless, prior to furnishing such commodities or the rendition of the service, authority for the same was given by the Common Council or some department of the city government having authority so to do.

No member of the Common Council or member of any department, and no city officer, shall have power to create any indebtedness against the city, or to furnish the basis of a claim, without said authority. A violation of this section shall be a misdemeanor.

No supplies, materials, or other item of expenditure, for an amount exceeding \$100 shall be ordered or purchased by the Mayor and Common Council or any Board or department of the city authorized to incur any expenditure, except after first advertising for sealed proposals, and awarding a contract to the lowest and best bidder. Each proposal must be accompanied by a certified check in an amount not less than ten per cent of the sum bid, which check must be forfeited to the city upon the failure of the person, firm, or corporation bidding to enter into the contract awarded. All contracts awarded by the Mayor and Common Council shall be by ordinance or resolution. A sufficient bond, payable to the city, with two or more sureties, shall be required to secure a faithful performance of each contract awarded.

Art. V, Chap. III, Sec. 3, (Am. Stats. 1901:956)

There shall be opened by the Treasurer the following

specific funds, to-wit: School Fund, Police Fund, Street Light Fund, Street Contingent Fund, Sewer Fund, Fire Department Fund, Health Department Fund, Park Improvement Fund, Library Fund, and General Fund.

Art. V, Chap. III, Sec. 6.

Out of the street light fund shall be paid all sums authorized to be paid for lighting the streets.

Art. V, Chap. III, Sec. 16.

Any demand against the treasury, or against any fund thereof, remaining unpaid at the end of the fiscal year for lack of money in the treasury applicable to its payment, may be paid out of any money which may subsequently come into the proper fund from delinquent taxes, or other uncollected income or revenue for such year. Such demands shall be paid out of such delinquent revenue, when collected, in the order of their registration.

Art. X, Sec. 4.

Said Board (of Police and Fire Commissioners) shall have power:

Fifth—To require all electric, telegraph and telephone wires to be located, laid, erected, and maintained subject to their approval.

Art. XIII, Sec. 10.

No member of the Common Council, or of any Board, and no officer or employe of said city while in office, shall be or become, directly or indirectly, interested in any contract, work, or business, or in the sale of any article the expense, price, or consideration of which is payable from the treasury, nor shall either or any of them receive any gratuity or advantage from any contractor or person furnishing labor or material for the same.

A violation of any provision of this section shall cause a forfeiture of his office, and he shall be forever disbarred and disqualified from being elected, appointed, or employed in the service of the city.

See note to Sec. 211, Sacramento Charter.

Art. V, Chap. III, Sec 13. (Am. Stats. 1903; 684.)

Out of the General Fund shall be paid all claims not provided to be paid out of any other specific fund, provided however, that the Mayor and Common Council may apportion any surplus moneys in the General Fund to any other specific fund whenever in their judgment the public interests will be subserved by such apportionment.



CHAPTER XXII.  
SANTA BARBARA.

(Stats. 1899:450)

Sec. 35.

When any bill is put upon its final passage and fails to pass, if a motion is made to reconsider, the vote upon such motion shall not be taken until the next regular meeting of the Council. No bill for the grant of any franchise shall be put on its final passage within thirty days after its introduction.

Sec. 40.

No contract for supplies, printing, advertising, stationery, maintenance of prisoners, fuel, street sprinkling, street repairs, street sweeping, or for lighting streets, public buildings, places or offices, or the supplying of water for the use of the municipality, in any of its departments, shall be made for a longer period than one year, nor shall any contract be made to pay for gas, electric lights, or any other illuminating material, nor for the supplying of water for the use of the municipality, in any of its departments, at a higher rate or rates than is charged to any other consumer. The erection, improvement, and repair of all public buildings and works, street and sewer work, and the furnishing of supplies or material for the same, and all purchases of other supplies used by the city, when the expenditure therefore exceeds one hundred dollars, shall be by contract let to the lowest responsible bidder, after notice in a daily newspaper, printed and published in the city for at least one week. Such notice shall distinctly and specifically state the work contemplated or the supplies required; *provided*, that the Council may reject any and all bids presented, and re-advertise, in its discretion.

See Pol. Code, Sec. 4412, quoted at page 17. See note to Sec. 43, subdiv. 34, of this charter.

See Pol. Code, Secs. 4458, 4459, page 20.

Sec. 42.

All contracts must be in writing, executed in the name of the city and by an officer authorized to execute the same. The form and legality of all contracts must be submitted to and passed upon by the City Attorney. Every contract must be countersigned by the finance committee, numbered and filed.

## Sec. 43.

The Council shall have power by ordinance:

Three. To establish and maintain a pole-line system or system of underground conduits in the city; to compel all telegraph, telephone, electric light, and other companies, corporations, firms, associations, or persons using wires to place and maintain their wires thereon, or therein, and to regulate the use and to fix the rental thereof, and to provide for the collection of the same from all corporations, companies, firms, associations, or persons using the same.

Fifteen. To regulate or prohibit the sale, keeping, storage, and use of powder, fireworks, dynamite, nitro-glycerine, and other explosive materials and substances, the place of their manufacture, or storage, and their transportation; and to regulate the storage of hay, straw, and other inflammable materials, and the use of steam boilers.

See note to Sec. 27, Los Angeles Charter.

Nineteen. To provide suitable rooms and buildings for the Courts, Boards, and officers of the city, and such furniture, fuel, lights, books, stationery, and other supplies of any kind as are or may be necessary for the convenient transaction of public business.

Twenty-four. To provide general regulations as to the quality, capacity, and location of water and gas pipes, mains, and fire plugs, and to provide for, and regulate the construction and repair of hydrants, fire plugs, cisterns, pumps, and other appliances as may be requisite to utilize the distribution of water and gas in the streets, public places and public buildings.

Twenty-six. To provide for the lighting of streets, alleys, public buildings and public grounds, and to construct, purchase, lease, own, control, maintain, and operate a system of lighting by artificial means of illumination.

See note to Sec. 862, Municipal Corporations Act.

Thirty-four. To regulate the use and sale of gas and electric lights, and fix and determine the price of gas and electric lights, and the rent of gas and electric light meters within the city, and regulate the inspection thereof; and to regulate telephone service and the use of telephones within the city, and to fix and determine the charges for telephones, and telephone service, and connections; and the removal and placing under ground of any and all telegraph, telephone, or electric light wires, or upon the pole line or in the underground conduits established by the city.

Under the decision in *Contra Costa Water Co. v. Breed*, 139 Cal. 432, probably this section makes the provision as to awarding contracts to the lowest bidder inapplicable to gas companies, etc.

Sec. 115. If at any time the city shall become the owner of any water supply or any plant or system for illumination, or shall decide to provide or construct such supply, plant or system, there shall be a department to be known as the water-works department, or the lighting department, as the case may be, and the Mayor shall appoint three citizens of the city to be commissioners of such department. They shall hold their office for the term of three years, and shall serve without compensation; *provided* that in the first appointments the terms shall be for one, two, and three years, respectively, to be designated in the notice of appointment by the Mayor.

Sec. 116. Such commissioners shall, in their respective departments, have full control and management of such water supply, or such plant or system of illumination, and of the construction, extension, alteration, and repair thereof, and of the collection of revenue therefrom, under such regulations by ordinance as the council may, from time to time, enact.

Sec. 117. The Council shall designate, by ordinance, the officers and employes of such department and their respective duties and compensation; but when once fixed, such compensation shall not be altered without the recommendation of the majority of the commissioners.

Sec. 118. The commissioners shall appoint all officers and employes of their department. They may remove temporary employes at will, but shall not remove appointees to permanent positions provided by ordinance, except for cause or for the improvement of the public service.

Sec. 119. No person shall be appointed to any position in any department created under this article, unless he be a man of good moral character, and of good repute for honesty and sobriety, a citizen of the United States, and a resident and elector of the city for at least two years next preceding his appointment. Nor shall any person be so appointed who has ever been convicted of a felony, or who is deficient in health, strength, and activity.

Sec. 120. The commissioners, in making appointments, shall be guided solely by the fitness of the applicants, and

no person shall be appointed to, or removed from any position on account of partisanship or political or religious opinions.

Sec. 121. No officer or employe in any department created under this article shall take any part whatever in any political caucus or convention, nor be a member of any political club or committee, nor take any part in any general or primary election, except to vote; and any officer or employe in such department violating any of the provisions of this section shall forfeit his position.

Sec. 122. The commissioners shall exercise general supervision over their department, and make such rules for the government and discipline of the officers and employes thereof as may be necessary to secure efficiency. All contracts for work and materials must be made by the commissioners in the manner provided in this charter for making contracts, and must be approved by the Council, and all payrolls and accounts before being paid by the Council shall first be passed upon by the commissioners, who shall thereupon certify them to the Council for payment.

Sec. 128. The powers and duties of the Board of Education are as follows:

Six. To provide for the school department all necessary supplies, including ink, pens, tablets, registers, blank reports, promotion cards, crayons, writing paper, rulers, pencils, diagrams, maps, globes, chemical and mechanical apparatus, and certificates of graduation, fuel and lights, and incur such other incidental expenses as may be necessary for the welfare of the department.

Sec. 149. All claims and demands whatever against the city of Santa Barbara, except salaries, interest coupons on bonds, and bonds of the funded debt, shall be paid only on demands as herein provided for.

Sec. 150. Said demands, except demands payable out of the Library Fund and Fire Department Fund, shall be presented to the Council on forms or blanks to be provided by the City Clerk, and shall be referred to its Committee on Finance. The said Committee shall, by its endorsement thereon, approve or reject the same in whole or in part. The Council shall then consider the said demands and the action of the said Committee thereon, and shall, if the same be just and legal, approve the same; but may, if it so determine, approve in part or reject the whole. The action of the Council shall be indorsed thereon, with the

date of such action, and certified with the signatures of the Mayor and City Clerk.

Sec. 151. All demands approved by the Council shall be delivered to the City Clerk, who shall thereupon draw a warrant therefor upon the City Treasurer, which shall be signed by the Mayor and countersigned by the City Clerk.

Sec. 152. No demand can be approved, audited or paid unless it specify each several item, with the date and amount thereof, nor unless it be subscribed by the claimant or his, her or its agent, and sworn to before some officer authorized to administer oaths.

Sec. 153. No payment can be made from the City Treasury or out of the public funds of said city unless the same be specially authorized by law or this charter, nor unless the demand which is paid be duly audited as in this charter, provided, the term "audited" as used in this charter with reference to the demands upon the treasury is understood to mean that said demands have been presented to, passed upon and approved as herein provided, and this must appear upon the face of the paper representing the demand or else it is not audited.

Sec. 157. No suit shall be brought upon any claim for money or damages against the city of Santa Barbara, until the demand for the same has been presented as herein provided, and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Nor shall suit be brought against said city upon any such claim or demand if the same shall be in whole approved and audited as provided herein; *provided*, that nothing herein contained shall be construed so as to deprive the holder of any demand of his right to resort to, or right to maintain any other proceeding against the said Council or any Board or officer of said city to compel them or him to act upon said demand or claim, or to pay the same when so audited.

Sec. 158.

All grants of franchises or privileges by the Council shall be awarded to the highest bidder in pursuance of the general laws of this State, nor shall any such franchise or privilege have any validity unless the person or persons to whom the same is made shall, within six months thereafter, actually and in good faith, commence the exercise or enjoyment of the same; *provided*, that where condemnation of property is necessary, condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of the franchise or privilege. Whenever any franchise or privilege

shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and said franchise or privilege, or the part thereof, so in disuse, shall no longer be used or enjoyed. When, in the exercise of any franchise or privilege, use has been made in any way of any street or alley of the city, such street or alley shall be put in good repair, and the materials or obstructions which have been placed therein in the exercise of such franchise or privilege shall be removed therefrom, at the expense of the person or company who has held such franchise or privilege, whenever the franchise or privilege is abandoned or falls into disuse.

Sec. 160.

No member of the Council, or of any board provided for by this charter, and no officer or employee of the city, shall be or become directly or indirectly interested in any contract, work or business, the consideration, price or profits of which are payable in whole or in part from the City Treasury or school funds and are determined or in any way directly affected by any official act of said Council, board, officer or employee, or in the sale of any article the price of which, or the purchase of which by or for the city, or by or for the public schools thereof, depends directly or indirectly upon any official act of such Council, Board, officer, or employee. No member of the Council or any Board provided for by this charter and no officer or employee of this city having any authority or power relating to or affecting the granting of any franchise, right or privilege, shall be or become directly or indirectly interested in any such franchise, right or privilege. Any member of the Council or of any Board herein mentioned and any officer or employee of the city violating the provisions of this section shall forfeit his membership or office or employment; and all contracts made, or rights, franchises or privileges granted in violation of this section shall be absolutely void.

See note to Sec. 211, Sacramento Charter.

## CHAPTER XXIII.

### SANTA CLARA.

(Stats. 1871-72:251)

Sec. 8.

The Board of Trustees ..... shall have power .....to license all and every kind of business authorized by law and transacted or carried on in said town;

to fix the rates of license tax on all such business, which shall not exceed the amount fixed by law for State and county purposes; .....

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

To regulate the location of slaughter houses, markets, and houses for the storage of gunpowder and other explosive and combustible materials;

See note to Sec. 27, Los Angeles Charter.

Sec. 11.

..... All claims and demands that may lawfully arise against the town shall be submitted to the Board of Trustees, and if found correct, and if sufficient funds remain in the Treasury to pay the same as hereinbefore provided, the same shall be allowed, and an order made that the demand be paid, upon which the President of the Board shall draw his warrant, countersigned by the Town Clerk upon the Town Treasurer in favor of the owner or owners for the amount so ordered paid, specifying for what purpose and by what authority it is issued, and the Treasurer shall pay the same out of the General Fund.

CHAPTER XXIV.

SANTA CRUZ.

(Stats. 1875-76:189)

Sec. 9.

The Common Council ..... shall have power .....to license all and every kind of business authorized by law, and transacted or carried on in said city; to fix the rates of license tax upon such business; .....

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

..... ; to regulate the location of slaughter houses, markets, and houses for the storage of gun-powder and other combustible and explosive substances; .....

See note to Sec. 27, Los Angeles Charter.

Sec. 11.

Every claim and demand that shall arise against the City of Santa Cruz shall be filed with the City Clerk, and presented to the Common Council, and, if found correct, shall be allowed and ordered paid by a majority vote of the Councilmen elected; and, when so allowed, shall be presented to the Mayor for approval; and if he approve such allowance, he shall endorse his approval upon such claim or demand; and if he fail or refuse to approve such allowance within ten days, the said claim or demand, in order to render the

same payable, must be allowed and ordered paid by the votes of three Councilmen. Upon the allowance of any claim or demand, as in this section provided, the Mayor shall draw his warrant (countersigned by the City Clerk) upon the City Treasurer, in favor of the owner or owners, specifying for what purpose, and by what authority it is issued, and out of what fund it shall be paid; and the Treasurer shall pay the same out of the proper fund; *provided, however,* that if said public moneys shall be in the hands of any special depository, as hereinafter provided, the order shall be drawn upon such depository as hereinafter required.

#### Sec. 37.

It shall be the duty of the Commissioner of Streets . . . ; he shall direct, with the assistance of the City Surveyor, the extent and manner in which streets may be excavated for the laying of gas, water, and other pipes; and shall direct the way in which such excavation shall be made, or the earth replaced therein. . . .

### CHAPTER XXV.

#### SANTA ROSA.

(Stats. 1903:702)

#### Art. V. Sec. 1.

The Common Council shall have power, and it is hereby made their duty, to make such ordinances, not inconsistent with the Constitution of the United States or of this State.

Two. . . . ; to drain, sprinkle, light, ornament, and keep in order all public streets, alleys, sidewalks, courts, parks, streams, creeks, or watercourses, squares, or public places, to remove obstructions therefrom, and generally to manage, control, and care for all such bridges, streets, sidewalks, curbs, lanes, alleys, squares, highways, sewers, and public places, and do all other things for the care, improvement, and conduct of said city.

Four. To provide for lighting public buildings, streets, and grounds with artificial light.

Six. To contract for the lighting of the streets and public buildings with gas, natural or artificial, electricity or artificial lights of any kind, no such contract to continue for a longer period than two years, unless as otherwise provided in this charter, and to be let only after public notice and to the lowest responsible bidder.

See Pol. Code, Sec. 4412. Quoted at page 17.



Nine—To regulate or prohibit the storage or placing of gunpowder, hay, dynamite, or other dangerous or destructive combustibles.

See note to Sec. 27, Los Angeles Charter.

Art. XI, Sec. 1.

It is hereby declared to be the purpose and intention of the people of the City of Santa Rosa that such of its public utilities as shall be deemed to be for the best interest of the people shall be acquired and owned by the city.

Art. XIX, Sec. 1. Except as otherwise provided in the constitution of the state, or as otherwise provided in this charter, every ordinance involving the granting by the city of any franchise for the supply of light or water, or for the lease or sale of any public utility, or for the purchase of land of more than five thousand dollars in value, or any contract for supplying the city with any commodity running for a period longer than two years, must be submitted to the vote of the electors of the city at the election next ensuing after the adoption of such ordinance. A special election may be called by the Common Council, provided the parties applying for the franchise deposit in the city treasury the estimated cost of said election.

Art. XIX, Sec. 2. The ticket used at such election shall contain the words "For the ordinance" (stating the nature of the proposed ordinance), and "Against the ordinance" (stating the nature of the proposed ordinance). If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the common council shall, within thirty days from the time of such election, proclaim such fact, and upon such proclamation such ordinance shall have the same force and effect as an ordinance passed by the Common Council and approved by the Mayor.

Art. XIX, Sec. 3. No such franchise or lease, or sale of any public utility, or purchase of land shall be of any force or effect except it be made by ordinance, and such ordinance be adopted by the people as in this section provided.

Art. XX, Sec. 1.

All bills, claims, and demands against the city shall be plainly stated in writing and verified by the oath of the claimant or some person in his behalf. The items of the claim shall be particularly stated therein. The said claim shall be filed by the City Clerk, who shall present it to the Common Council, and they shall allow or reject the same in whole or in part. No bill, claim, or demand shall be allowed in whol

or in part unless so made out and verified. No action shall be commenced against the city unless the said bill, claim, or demand upon which it is founded shall have been first so presented in writing, by filing the same with the City Clerk, nor until two months after such filing. Upon the expiration of said two months, if such claim, bill, or demand, shall not have been allowed, or allowed only in part, and suit shall thereafter be commenced, and no more is recovered against said city than the amount so allowed, no costs shall be recovered against said city, but said city shall recover costs. If no action shall be commenced within one year after the expiration of said two months, the bill, claim, or demand so filed, of whatever nature, shall be forever barred and incapable of ever being revived in any manner whatsoever.

Art. XX, Sec. 2.

Warrants on the Treasury shall be drawn by the City Clerk for all bills, claims, or demands allowed by the Common Council, which shall be signed by the Mayor, countersigned by the City Clerk, and shall be numbered and paid in the order of their numbers.

CHAPTER XXVI.

STOCKTON.

(Stats. 1889:578)

Sec. 19.

When any bill is put upon its final passage and fails to pass, if a motion is made to reconsider, the vote upon such motion shall not be taken until the next meeting of the Council. No bill for the grant of any franchise shall be put on its final passage within thirty days after its introduction.

Sec. 22.

The action of the Council shall be by ordinance or resolution. To constitute an ordinance, a bill must before final action thereon be passed to print, and published, with the ayes and noes, for ten days; and in case of any amendment being thereafter made, must in like manner be republished as amended for not less than five days. No action providing for any specific improvement, or the granting of any privilege or involving the lease, appropriation, or disposition of public property, or the expenditure of public money (except sums of less than five hundred dollars), or the levying of any tax or assessment, or the imposing of any new duty or penalty, shall be taken except by ordinance.

## Sec. 27.

No contract for lighting streets, public buildings, places, or offices shall be made for a longer period than one year; nor shall any contract be made to pay for gas, electric lights, or any other illuminating material at a higher rate than is charged to any other consumer.

See Pol. Code, Sec. 4412. Quoted at page 17.

## Sec. 29.

All contracts must be in writing, executed in the name of the city, and by an officer authorized to make the same. The form and legality of all contracts shall be submitted to and passed upon by the City Attorney. Every contract must be countersigned by the Auditor, numbered, and registered in a book kept for that purpose.

## Sec. 30.

The Council shall have power to pass ordinances:

Three. To regulate the laying of telegraph or telephone wires in or upon the public streets; erecting of gas and electric lights therein; the numbering of houses on the streets and avenues; the naming of the streets, avenues, public places, and thoroughfares; the crossing of streets, avenues, sidewalks, and gutters; the use of streets and sidewalks for signs, sign-posts, awnings, awning-posts, horse-troughs, telegraph posts, and other purposes; .....

Five. To provide for and regulate street pavements, cross-walks, curbstones, grades, gutters, sewers, lighting and watering of the streets, avenues, and public places.

See note to Sec. 862, Municipal Corporations Act.

Fourteen. To regulate or prohibit the sale, storage, and use of powder, fireworks, dynamite, nitro-glycerine, and other explosive or combustible materials and substances, the places of their manufacture, storage, and their transportation.

See note to Sec. 27, Los Angeles Charter.

Seventeen. To provide for the public printing, and to provide suitable rooms and buildings for the courts, boards, and officers of the city, and such furniture, fuel, lights, and stationery, and other supplies of any kind as are necessary for the convenient transaction of public business, all of which shall be provided by the Board of Public Works upon requisition of the Council, when the expenditure to be incurred may exceed one hundred dollars.....

Twenty. To regulate or prohibit the use of steam boilers, the location of telegraph and telephone poles and wires, awnings, and hanging signs, and the construction of entrances to cellars and basements from sidewalks.

Twenty-six. To regulate the quality, capacity, and location of water and gas pipes, mains, and fire plugs, and to provide for and regulate the construction and repair of hydrants, fire-plugs, cisterns, pumps, and such other appliances as may be requisite to utilize the distribution of water and gas in the streets, public places, and public buildings.

Twenty-nine. The grant of a franchise shall be a delegation of the right to condemn private property for public uses upon compensation being made therefor as provided by law.

Sec. 41. There shall be a Board of Audit, to be composed of the Mayor, the City Clerk, and President of the Council. It shall be made the duty of the Board to make a final examination of all bills presented against the city for payment, except the claims of officers having a fixed salary. The Board shall act independently of every other Board, committee, department, or officer, and no claim, including claims for local improvements, shall be paid unless a majority of the Board shall certify that the services have been rendered, or the materials furnished, for which such bills may be presented, and that the charges are just and reasonable or according to contract.

Sec. 42. All moneys drawn from the Treasury shall be upon vouchers for the expenditure thereof, examined and allowed by the Board of Audit, in whose office all such vouchers shall be filed.

Sec. 44.

It shall also have the right to examine any person presenting claims for settlement, or other witnesses concerning any such claim, and any member of the board shall have authority to administer an oath to any such claimant or witness.

Sec. 147.

The Department of Streets and Wharves shall embrace the control of the waterfront and wharves; of the streets, sidewalks, bridges, and public thoroughfares; of the parks and public grounds; of the sewer system, drainage, and sewers; of the watercourses and channels within the city; of the lighting of the streets and public buildings, and of everything of a public nature pertaining to said subjects, or to either of them; also, of all such special matters as the City Council may by ordinance commit to its charge, and not otherwise provided for in this charter.

## Sec. 148.

All contracts let, and work ordered for said department, shall be let and ordered by the Board, and the Board shall see that the same are faithfully carried out and performed. The time for the completion of contracts shall be definitely fixed and agreed upon, and no further time shall be granted by the City Council, except upon recommendation of the Board.

## Sec. 201.

Unless otherwise provided in this charter, all contracts for work or supplies of any kind for more than three hundred dollars, shall be let to the lowest bidder after notice given, by posting the same for ten days, and by publishing the same for five days, and all sales or leases of property belonging to the city shall be by public auction to the highest bidder, upon such terms and conditions as the City Council may by ordinance direct, and after like notice given.

See Pol. Code, Secs. 4458, 4459, page 20.

## Sec. 202.

No grant of any franchise by the City Council shall have any validity or effect unless the person or persons to whom the same is made shall within six months thereafter, actually and in good faith, and not colorably, commence the exercise or enjoyment of the same, there being no legal impediment thereto; *provided*, that condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of a franchise granted under this charter. Whenever any franchise shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and the said franchise, or that part thereof so in disuse, shall no longer be exercised or enjoyed; *provided*, that the disuse of any portion of the franchise, unless permission be before obtained of the City Council, shall be deemed a forfeiture of the whole.

## Sec. 205.

No member of the City Council, and no officer or employe of the city shall be or become directly or indirectly interested in or with the performance of any contract, work, or business, or in the sale of any article, the expense, price, or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city, or

which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the city. Any member of the City Council, officer, or employe of this city violating the provisions of this section, or who shall be directly or indirectly interested in any franchise, right, or privilege granted by the city while he is such member, officer, or employe, unless the same shall devolve upon him by law, shall forfeit his office, and be forever disqualified from holding any position in the service of the city; and all contracts made, or right or franchise granted in violation of this section, shall be absolutely void.

See note to Sec. 211, Sacramento Charter.

## CHAPTER XXVII.

### VALLEJO.

(Stats. 1899:370)

#### Sec. 11.

All meetings of the board shall be public, and a journal of its proceedings shall be kept by the City Clerk under its direction, and the ayes and noes shall be taken and entered in the journal in the final action upon the granting of franchises, making of contracts, passage of any ordinance, or resolution ordering work to be done, supplies furnished, the ordering of assessments for street improvements, or building of sewers, and in all other cases upon the call of any member; all balloting for officers or confirmation of appointments must be by viva voce.

#### Sec. 20.

Every bill or resolution providing for any specific improvement, or the granting of any franchise or privilege, or involving a lease, appropriation, or disposition of public property, or the expenditure of public money, except sums less than two hundred dollars, or levying any tax or assessment, and every ordinance providing for the imposition of a new duty or penalty, shall, after its introduction, be published in one newspaper, with the ayes and noes, for at least five consecutive days (Sundays and legal holidays excepted), before final action upon the same. If such bill be amended, the bill as amended shall be advertised for a like period before the action thereon. But in cases of great necessity the officers and heads of departments may expend such sums of money, not to exceed two hundred dollars, as shall be necessary to meet the requirements of such necessity.

See Pol. Code, Secs. 4458, 4459, page 20.

Sec. 24. Except as provided in this charter, all demands payable out of the Treasury must, before they can be approved by the Auditor, or paid by the Treasurer, be first approved by the Board of Trustees.

Sec. 28.

Subject to the provisions, limitations, and restrictions in this charter contained, the Board of Trustees shall have the power:

1. Except as otherwise provided in this charter, or in the Constitution of the State of California, to regulate and control, for any and every purpose, the use of the streets, highways, wharves, piers, chutes, public thoroughfares, public places, alleys, and sidewalks of the city.

8. To provide for lighting, watering, and cleaning the streets of the city. No contract for lighting the streets, public buildings, places or offices, shall be made for a longer period than one year, nor shall any contract be made to pay for gas, electric lights, or any other illuminating material at a higher rate than is charged to any other consumer; and every person or corporation furnishing the city with any kind of light from gas, electric or any other illuminating power or substance for lighting the streets, or public offices or buildings, shall be required to furnish the city with the full power and quality of illumination which they are by their contract obliged to furnish. The Auditor shall audit no bill for lighting the streets, offices, or public buildings, unless said bill is accompanied by the affidavit of the owner (if it be a private enterprise), or the president of the company (if it be a corporation), setting forth that all the provisions of the contract or agreement have been fully and unequivocally complied with, and it shall be the duty of the Mayor to have the power or strength of said illuminating substance tested as often as in his judgment the interests of the city shall require it; and if it be shown that the gas lamps, or electric lights, or any other illuminating substances have not been furnishing to the city the candle-power stipulated in said contract, the Board of City Trustees shall declare the contract forfeited and shall impose such other penalty as in their judgment may seem proper.

See note to Sec. 862 Municipal Corporations Act. See also Sec. 4412, Pol. Code, quoted at page 17.

13. To regulate the keeping and use of animals; and the keeping and use of gunpowder and other dangerous substances.

See note to Sec. 27, Los Angeles Charter.

24. Except as otherwise provided in this charter, to acquire, regulate, and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic and telegraphic service to the city, and to acquire, regulate, and control any and all appliances for the sprinkling and cleaning of streets within the city, and for flushing the sewers.

25. The trustees shall fix and determine by ordinance in the month of February of each year, to take effect on the first day of July thereafter, the rates of compensation to be collected by the city of any person, company, or corporation in the city, for tolls, wharfage, ferriage, or the use of water, heat, light, or power, supplied to the city, or to the inhabitants thereof, and to prescribe the quality of the service.

Under the decision in *Contra Costa Water Co. v. Breed*, 139 Cal. 432, this provision probably makes the provision as to letting contracts to the lowest bidder inapplicable to gas companies, etc.

26. To impose license taxes and to provide for the collection thereof.

See note to Sec. 2, Subdiv. 13. Los Angeles Charter.

39. The trustees shall have no power to grant franchises or privileges for the construction and maintenance of bridges, wharves, docks, or piers, or for the operation of ferries, or for the erection of poles or wires for transmitting electric power, or for lighting purposes along or upon any public street or highway of the city, except upon all the conditions and in the manner prescribed by the general law of the State. The Board shall at all times have the right to regulate the charges of any person, company, or corporation using, enjoying, or possessing such franchise or privilege; and must expressly provide that the franchise shall not be renewed or regranted; and that the whole of the stationary fixtures and improvements upon the public streets and highways of the city shall, upon the expiration or abandonment of the franchise, become the property of the city. No franchise shall be granted for the construction and maintenance of any wharf, or for the operation of any ferry for a period exceeding twenty years.

40. When, on the expiration of any franchise, it shall be deemed inexpedient by the Board to use any of the property reverting to it by reason of such expiration in the operation of such franchise, then the board shall have the power to lease such property to any person, company, or corporation after the notice, on the terms, and in the manner above provided as to the granting of franchises, as



far as the same may be applicable. But no ordinance authorizing such lease shall be passed prior to ninety days next preceding the expiration of such franchise; *provided*, that such lease shall not be for a longer term than ten years.

47. No member of the Board of Trustees or any other Board, nor any officer elected or appointed, or employe of the city, shall be or become directly or indirectly interested in or with the performance of any contract, furnishing of any supplies, work or business, or in the sale of any article, the expense, price, or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city, or which shall be sold for taxes or assessment or by virtue of legal process at the suit of the city. Any member of the Board of Trustees or of any other Board, officer, or employe of the city, violating the provisions of this section, or who shall be directly or indirectly interested in any franchise, right, or privilege granted by the city, while he is such member, officer or employe, unless the same shall devolve upon him by law, shall forfeit his office and be forever disqualified from holding any position in the service of the city, and all contracts, or rights, or franchises granted in violation of this section shall be absolutely void.

See note to Sec. 211, Sacramento Charter.

48. .... The Finance Committee shall have the power and it shall be its duty to examine the records and expert the books and accounts of all persons, companies or corporations, that are required to pay a portion of their gross receipts into the Treasury, and shall likewise as an aid to the fixing of rates for the furnishing water and light to the city and to the inhabitants thereof, have like power, and it shall be its duty to examine the records, and examine and expert the books of account of any and all persons, companies, or corporations so furnishing water and light.

Sec. 29. No exclusive franchise or privilege shall be granted by the trustees; and every grant of a franchise shall be subject to the right of the board of trustees at any time thereafter to repeal, change, or modify the said grant, and every ordinance making such grant shall contain a reservation of the right of the board of trustees to repeal, amend, or modify such ordinance.

Sec. 30. When an application is made for a franchise or privilege, by any person, company, or corporation, to the Board of City Trustees, said application must be accompanied by a sum sufficient to defray the preliminary expenses thereof.

Upon the receipt of such application the Board shall consider the necessity of such franchise or privilege; if it decides that such franchise or grant is a public necessity, or that it may be a public benefit, they shall, by resolution, advertise the fact that an application for such franchise or privilege has been made to the board of trustees, together with a statement that it is proposed to grant the same, must first be advertised in one newspaper of said city. Such advertisement must state that bids will be received for such franchise and that it will be awarded to the highest bidder, and such advertisement must be published in such daily newspaper once a day for ten successive days (Sundays and legal holidays not included), and thirty full days must elapse after the date of such advertisement before the board shall take any further action on the matter.

The advertisement must state the character of the franchise or privilege proposed to be granted, the term of its continuance, that sealed bids or tenders will be received up to a certain hour on a day named therein, and the further statement that no bids will be received of a single sum or amount stated; but that all bids must be for the payment, in lawful money of the United States, of a stated per cent of the gross annual receipts of the person, partnership, or corporation, or other authority to whom the franchise is awarded, arising from its use, operation, or possession.

Every proposal submitted shall contain a check payable to the Mayor of the city, certified by a responsible bank, equal in amount to that named by the Board of Trustees in the advertisement calling for said bids.

The Board of Trustees must grant the franchise to the highest bidder; *provided*, that nothing in this section shall prevent the Board of Trustees from rejecting any or all bids whenever they may think that it would be for the best interests of the city to do so.

On the opening of said bids the Board shall order all checks returned to the proper parties, except the check of the highest bidder, which shall be retained until the bond is filed with the clerk of the Board of Trustees with two good and sufficient sureties, to be approved by the Board of Trustees, in the penal amount as prescribed and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfil and perform each and all of the terms, conditions, and obligations of such franchise; such bond must be filed with the Clerk of the Board within twenty days after the award of said

franchise. Should said highest bidder fail to file the required bond in the stipulated time the board must order the check forfeited to the city; when the bond is furnished within the required time, the check shall be returned to the party furnishing the same.

Sec. 31. No franchise can be surrendered without the consent of the Board of Trustees; *provided*, that on the application of the Mayor or a majority of the Board of Trustees it shall be the duty of the Attorney General to sue for a forfeiture of any franchise granted when it is alleged by them in such suit, noncompliance with the terms of such franchise or privilege.

Any member of the Board of Trustees who by his vote violates, or attempts to violate the provisions of this article, or any of them, shall be guilty of a misdemeanor and of malfeasance in office, by the decree of a court of competent jurisdiction, after a trial and conviction.

Sec. 33. All franchises or privileges granted or awarded from which a per centum of the gross annual earnings of the person, company, or corporation is required to be paid to the city, shall contain a provision that said person, company, or corporation shall keep a correct account of all earnings of such person, company, or corporation, arising from the use, operation or possession of the same, in a set of books kept for that purpose, and said books shall be at all times open and subject to the inspection of any agent of the city appointed or empowered by said city to make an inspection of said books and accounts.

Sec. 34. All franchises or privileges now existing, or that may hereafter be awarded, shall be declared forfeited whenever it is shown that they have not been in use for a period of six months, except the person, company, or corporation to whom the same has been awarded, shall obtain from the Board of Trustees an extension of the time: *provided*, that no more than one extension shall be in any case granted; and said extension shall not be for a longer period than six months.

Sec. 35. Any ordinance granting a franchise, or authorizing a lease under the provisions of subdivision forty of section twenty-eight of this charter shall be in force from and after the expiration of thirty days from the date of its passage by the Trustees, unless within said thirty days a petition signed by a number of the electors of the city equal to fifteen per centum of the votes cast at the last preceding election shall have been filed with the Trustees, asking that said ordinance be submitted to the vote of the

people. In such cases said ordinance shall be submitted at the next election to the vote of the electors of the city, and unless said ordinance shall at said election receive in its favor a majority of all the votes cast thereon it shall have no force or effect for any purpose. If a majority of the votes be in favor of such ordinance, the Board of election commissioners shall, on the conclusion of the canvass of the vote thereon, proclaim such fact, and upon such proclamation said ordinance shall have full force and effect as of the date aforesaid. Said petition and submission shall be made in accordance with the provisions of section twenty-six of this charter.

Sec. 50. Every demand must, before it can be paid, be verified by the oath of the claimant, or some one in his behalf, and be presented to the Auditor to be approved, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and if so, out of what fund, and that there is sufficient money in such fund with which to pay the same; after such examination he shall approve or reject the claim, in whole or in part, and indorse on such demand his approval or rejection over his signature, together with the date thereof; if it is approved, the fund out of which it is to be paid is to be designated. If it is rejected or any part of it, unless the party presenting it is willing to take in full of the entire demand the sum offered, the Auditor shall return it to the Board or other body which originally authorized it, together with his reasons for rejecting it; then, if it is allowed by a majority vote of all the members of the Board or other body authorizing it, and approved by the Mayor, it shall be audited in the same manner as if it had not been rejected; *provided*, the same Board or other body had the authority to make the expenditure out of which the claim arose. No demand upon the treasury shall be considered, presented for action, or acted upon, allowed, or approved, unless it specifies on its face each several item composing it, and the amount and date thereof. Every demand shall be numbered and acted upon by the Auditor in the order of its presentation to him; and when allowed, either in whole or in part, the warrant therefor shall be numbered and entitled to payment out of the fund on which it is drawn, in the same order as allowed. No demand upon the treasury shall be allowed by the Auditor in favor of any officer or other person, or any of his assigns, who is in any manner indebted to the city, without first deducting therefrom the amount of such indebtedness;

nor in favor of any officer or other person or his assigns, having the collection, care, custody, or control of public funds, unless the accounts of such officer or other person have been presented, passed, approved, and allowed as it is, or may be, required by law; nor in favor of any officer or other person or his assigns who has neglected to make any oath required by law, or ordinance or other regulation of the Board of Trustees; nor in favor of any officer or his assigns who has failed, to the knowledge of the Auditor, to do any duty imposed upon him by law, or ordinance or other regulation of the Board of Trustees.

The Auditor shall have authority to take affidavits and administer oaths necessary in the transaction of all city business without charge, and shall perform such other duties as are imposed upon him by law or this charter.

Sec. 78. The Commissioners (of Public Works) shall have special charge, superintendence, and control subject to such ordinances as the Board of City Trustees may from time to time adopt, of the harbor and water front, of the water system, and of all streets, highways, sidewalks, roads, bridges, wharves, parks, and public places belonging to the city, or dedicated to public use, and of the improvements and repair thereof; of all sewers, cesspools, and the work pertaining thereto, or to the drainage of the city; of the cleaning of streets; and of all repairs upon all accepted streets; of the construction and repair of all public buildings, and the making of all improvements for the city or under its authority; and if at any time the city should own its own system for lighting the streets and public places thereof, the commissioners shall have the management of all its plant and whatever may belong to the system. It shall have exclusive authority to prescribe rules and grant permits in conformity with the ordinances of the city for the moving of buildings through the streets thereof; the keeping of sidewalks clear of obstructions, the erection of lamp posts, electric light, telegraph and telephone poles in the streets and alleys of the city; the putting up of signs and awnings; the location of steam boilers, the determining of the location of all gas, water, and sewer pipes laid in the streets or alleys, and to prescribe such rules as shall prevent damage to the streets by reason of the laying of said pipes and sewers. The commissioners shall have full power to regulate and control, subject to the ordinances of the city, the anchorage of vessels in the harbor of Vallejo; the manner of using the streets, sidewalks,

wharves, harbor, parks, and public places, and to prevent and remove obstructions therefrom, and cause the prompt repair of streets, sidewalks, and public places when the same may be taken up or altered.

## CHAPTER XXVIII.

### WATSONVILLE.

(Stats. 1903:648)

#### Art I, Sec. 1,

The Municipal Corporation now existing and known by the name of the "City of Watsonville" ..... may construct, purchase or otherwise acquire water works, artificial light works, street railroads and other public utilities and may regulate, manage and dispose of the same.

#### Art. II, Sec. 6.

The meetings of the Board of Aldermen shall be open to the public, and the ayes and noes shall be taken and recorded by the Clerk upon every final action of said board in the granting or extending of franchises, the making of contracts, the ordering of work to be done, or supplies to be furnished, the election of subordinate officers and the passage of ordinances.

#### Art. II, Sec. 10.

No contract for supplies, printing, advertising, stationery, maintenance of prisoners, fuel, street sprinkling, street repairs, sweeping or lighting streets, public buildings, places or offices, or the supplying of water for the use of the municipality shall be made for a longer period than one year, nor shall any contract be made to pay for gas, electric lights or any other illuminating materials, or for the supplying of water for the municipality at a higher rate than is charged to other consumers. The erection, improvement and repair of all public buildings and works, street and sewer work and the furnishing of supplies or material for the same, and all purchases of other supplies and all contracts where the expenditure exceeds two hundred and fifty dollars shall be let by contract to the lowest responsible bidder, after notice published at least once in some newspaper published in the City of Watsonville. Such notice shall state the character of the work to be done or supplies to be furnished, or refer to the place where the specifications may be seen.

See Pol. Code, Sec. 4412. Quoted at page 17.

See Pol. Code, Secs. 4458, 4459, page 20.

This section of the charter must be read in connection with Article X, Sec. 1, of the same. Under the decision of the Supreme Court in *Contra Costa Water Co. v. Breed*, (Cal.) 73 Pac. Rep. 180, it is doubtful if the above provision as to letting contracts to the lowest bidder applies to gas companies.

Art. II, Sec. 12.

Subject to the provisions, limitations and restrictions in this charter contained, the Board of Aldermen shall have power:

7. .... to prescribe ..... the manner and materials used in wiring buildings or other structures for the use of electricity for lighting power or other purposes, and the manner and materials used for piping buildings or other structures for the purpose of supplying the same with water and gas; to summarily abate and prohibit the construction of buildings and structures which do not conform to such regulations.

26. To regulate or prohibit the manufacture, keeping, storage and use of powder, nitro-glycerine, fireworks, and other explosive substances and materials.

27. To regulate the storage of hay, straw and other inflammable materials.

See note to Sec. 27, Los Angeles Charter.

40. To provide for the erection, maintenance and repair of all municipal buildings, and for the cleaning and lighting thereof.

42. To grant franchises; and to grant the right to erect or lay telegraph or telephone wires, to construct and operate street railroads, to lay gas or water pipes, to erect poles and wires, or lay conduits for transmitting electric energy for lighting or power purposes along or upon the public streets and highways of the city; *provided, however*, that all such rights and franchises shall be granted subject to all the restrictions and limitations in this charter contained relating to the granting of franchises.

46. To cause the removal and placing underground of all telephone, telegraph, electric light or other wires within the city, or within any designated portion thereof, and to regulate and prohibit the placing of poles and the suspending of wires along or across any of the streets, alleys, and public places of the city.

49. To license and regulate places of amusement and the carrying on of any and all professions, trades, callings, occupations and kinds of business carried on within the limits

of said city, and to fix the amount of license tax thereon to be paid by all persons engaged in carrying on such places of amusement and such professions, trades, callings, occupations and all kinds of business in said city, and to provide for the manner of enforcing the payment of such license tax; .....

See note to Sec. 2, Subdiv. 13, Los Angeles Charter.

Art. X, Sec. 1. The Mayor and Board of Aldermen shall fix and determine annually just and reasonable rates of compensation to be collected by any person, firm, company or corporation in the City of Watsonville for the use of water supplied to the city or the inhabitants thereof. To fix and determine annually just and reasonable rates of compensation to be collected by any person, firm, company or corporation in the City of Watsonville for lighting the streets, alleys, public buildings and public grounds of the City of Watsonville, or for furnishing lights to the inhabitants thereof.

Art. X, Sec. 2. The Board of Aldermen shall have power to construct, purchase, lease, own, acquire, control, maintain and operate a system for supplying the city and its inhabitants with water; also a system of lighting the streets, alleys, public buildings and public grounds, and to operate a system of lighting by artificial gas, natural gas, electricity or other means of illumination, and furnish the same to the inhabitants of said city; *provided, however*, no such construction, lease or purchase shall be made unless first authorized by a vote of two-thirds of the electors voting at any general or special election at which the proposition may be submitted.

Art. X, Sec. 3. The Board of Aldermen shall have power to determine and declare what are public uses and public utilities, when the necessity exists to condemn lands therefor and what land it is necessary to condemn; may construct, acquire, purchase, own, manage and operate any property that said Mayor and Board of Aldermen may determine and declare to be a public use or public utility; may receive gifts, bequests and donations of all kinds of property within or without its corporate limits, in fee simple or in trust for charitable or other lawful purposes, and do all acts necessary to carry out the purpose of said gifts, bequests and donations, with power to manage, sell, lease or otherwise



dispose of the same in accordance with the terms of the gift, bequest or trust.

Art. XIV, Sec. 1.

No exclusive franchise or privilege and no special privilege shall be granted for any purpose.

Art. XIV, Sec. 2.

No application for a franchise shall be considered by the Board of Aldermen unless the application shall be accompanied with the sum of three hundred dollars, which sum shall be returned to the applicant in the event that the Board of Aldermen shall determine that neither the public necessity nor the public interest requires the granting of the franchise. If, however, the Board of Aldermen shall determine that the public necessity or the public interest requires the granting of the franchise, then the said sum of three hundred dollars shall be retained by the city in full for all costs of advertising and other preliminary expenses connected with the offering for sale of such franchise and the granting of the same.

Art. XIV, Sec. 3.

In granting a franchise the Board of Aldermen shall impose such lawful conditions, restrictions and limitations as may best subserve the public interest and welfare.

Art. XIV, Sec. 4.

In granting of franchises the Board of Aldermen shall be governed by the general law of the State in force at the time, which is hereby declared to be, and is hereby made, a part of this charter so far as it is or may be applicable to the class of cities to which this municipality may belong.

Art. XV, Sec. 4.

No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof in their official capacity, or in doing any work or furnishing any supplies for the use of such city, or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any officer is interested, shall be void, and if audited and allowed, shall not be paid by the Treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

See note to Sec. 211, Sacramento Charter.

Art. XV, Sec. 9.

All demands against the city shall be presented to and audited by the Board of Aldermen, in accordance with such regulations as they may, by ordinance, prescribe.

## CHAPTER XXIX.

## YUBA CITY.

(Stat. 1877-8: 783.)

Sec. 7. The Board (of Trustees) shall have power to pass.....ordinances....., especially to declare what are nuisances, and to prevent or remove the same;..... to license every kind of business carried on within the corporate limits of the town, the rate of license not to exceed that fixed by law for State and County purposes.

Sec. 13. The Board shall create no debt nor incur any pecuniary liability beyond the amount of the town funds in their hands.

Sec. 16. No member of the Board shall in any wise be interested in any contract or sale of anything belonging to said town or business ordered to be executed by said Board.

# APPENDIX

## *List of Principal Gas and Electric Companies Doing Business in California.*

The city or town given opposite the name in each case is either the principal place of business or the locality served.

Bakersfield Gas & Electric Light Co.....	Bakersfield
Bay Counties Power Co.....	San Francisco
Berkeley Electric Lighting Co.....	Berkeley
Butte County Electric Light & Power Co.....	Butte Co.
California Central Gas & Electric Co.....	San Francisco
California Gas & Electric Corporation .....	San Francisco
Capitol Gas Company.....	Sacramento
Chico Gas & Electric Co.....	Chico
Colusa Gas & Electric Co.....	Colusa
Corona Gas & Electric Co.....	Corona
Edison Electric Co.....	Los Angeles
Equitable Gas Light Co.....	San Francisco
Eureka Lighting Co.....	Eureka
Fresno Gas & Electric Light Co.....	Fresno
Gilroy Gas Co.....	Gilroy
Hanford Light & Fuel Co.....	Hanford
Hollister Light & Power Co.....	Hollister
Independent Electric Light & Power Co.....	San Francisco
Independent Gas & Power Co.....	San Francisco
Jackson Gas Light Co.....	Jackson
Livermore Water & Power Co.....	Livermore
Long Beach Gas Co.....	Long Beach
Los Angeles Lighting Co.....	Los Angeles
Los Gatos Gas Co.....	Los Gatos
Marysville Gas & Electric Co.....	Marysville
Merced Falls Gas & Electric Co.....	Merced
Modesto Gas Light, Coal & Coke Co.....	Modesto
Napa Gas & Electric Co.....	Napa
Nevada County Gas & Electric Co.....	Nevada City
Oakland Gas, Light & Heat Co.....	Oakland
Oroville Light & Power Co.....	Oroville

Pacific Coast Light, Heat & Power Co.....	San Luis Obispo
Pacific Gas Improvement Co. ....	San Francisco
Pacific Lighting Co. ....	San Francisco
Pasadena Consolidated Gas Co. ....	Pasadena
Petaluma Gas & Electric Co. ....	Petaluma
Pomona & Ontario Light & Fuel Co. ....	Pomona
Red Bluff Electric Light & Gas Co.....	Red Bluff
Redding Electric Light & Water Co.....	Redding
Redlands Gas Co.....	Redlands
Richmond Light & Water Co. ....	Point Richmond
Riverside Light & Fuel Co.....	Riverside
Sacramento Electric, Gas & Railway Co.....	Sacramento
Sacramento Natural Gas Co.....	Sacramento
Salinas Water, Light & Power Co. ....	Salinas
San Bernardino Gas & Electric Co.....	San Bernardino
San Diego Gas & Electric Light Co.....	San Diego
San Francisco Coke & Gas Co.....	San Francisco
San Francisco Gas & Electric Co.....	San Francisco
San Leandro Gas & Electric Light Co.....	San Leandro
San Luis Obispo Gas Co. ....	San Luis Obispo
San Rafael Gas & Electric Light Co.....	San Rafael
Santa Clara Municipal Gas Plant.....	Santa Clara
Santa Cruz Electric Light & Power Co.....	Santa Cruz
Santa Rosa Lighting Co. ....	Santa Rosa
Selma Light & Water Co.....	Selma
Solano Electric Light & Gas Co.....	Benicia
Standard Electric Co.....	San Francisco
St. Helena Gas Co.....	St. Helena
Stockton Gas & Electric Co... ..	Stockton
Suburban Electric Light Co. ....	San Leandro
United Electric, Gas & Power Co.....	Santa Barbara
United Gas & Electric Co.....	San Jose
Vallejo Gas Light Co. ....	Vallejo
Valley Gas & Fuel Co.....	Pasadena
Valley Counties Power Co. ....	San Francisco
Ventura Water, Light & Power Co.....	San Buenaventura
Watsonville Gas Co. ....	Watsonville
Whittier Light & Fuel Co. ....	Whittier
Woodland Gas & Electric Co. ....	Woodland

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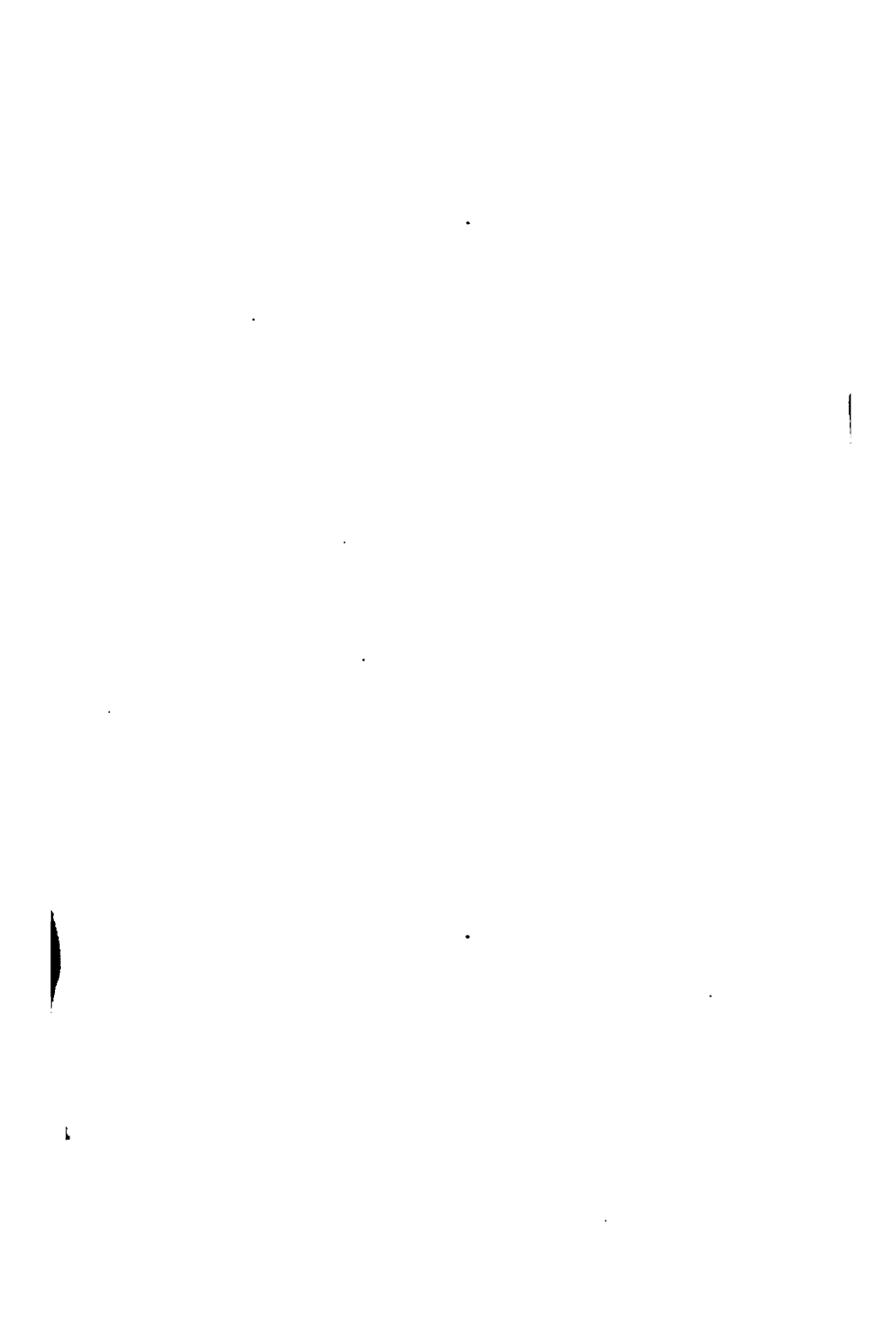
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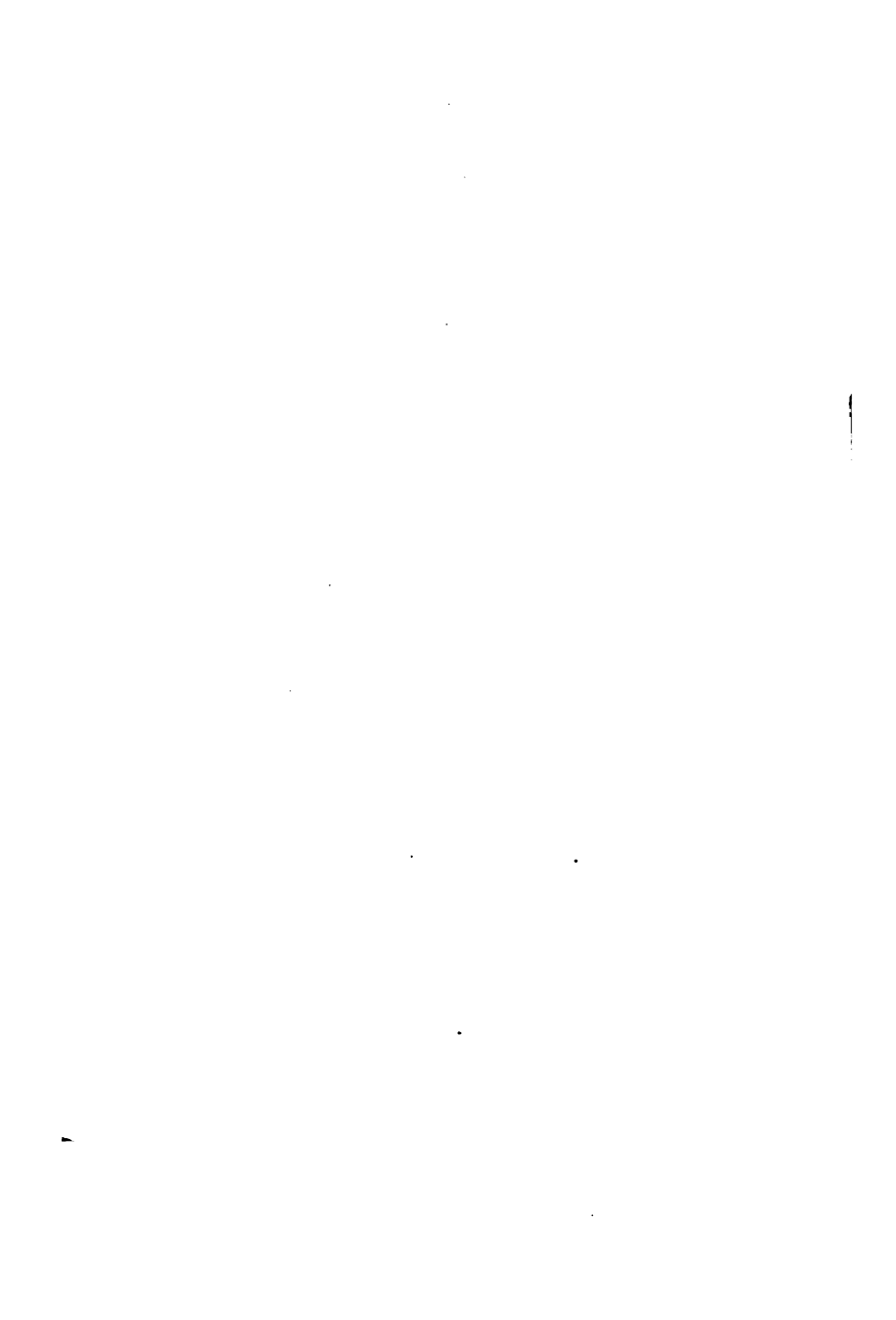
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*These pages are intended for a memorandum  
of Municipal Ordinances concerning  
gas and electricity.*

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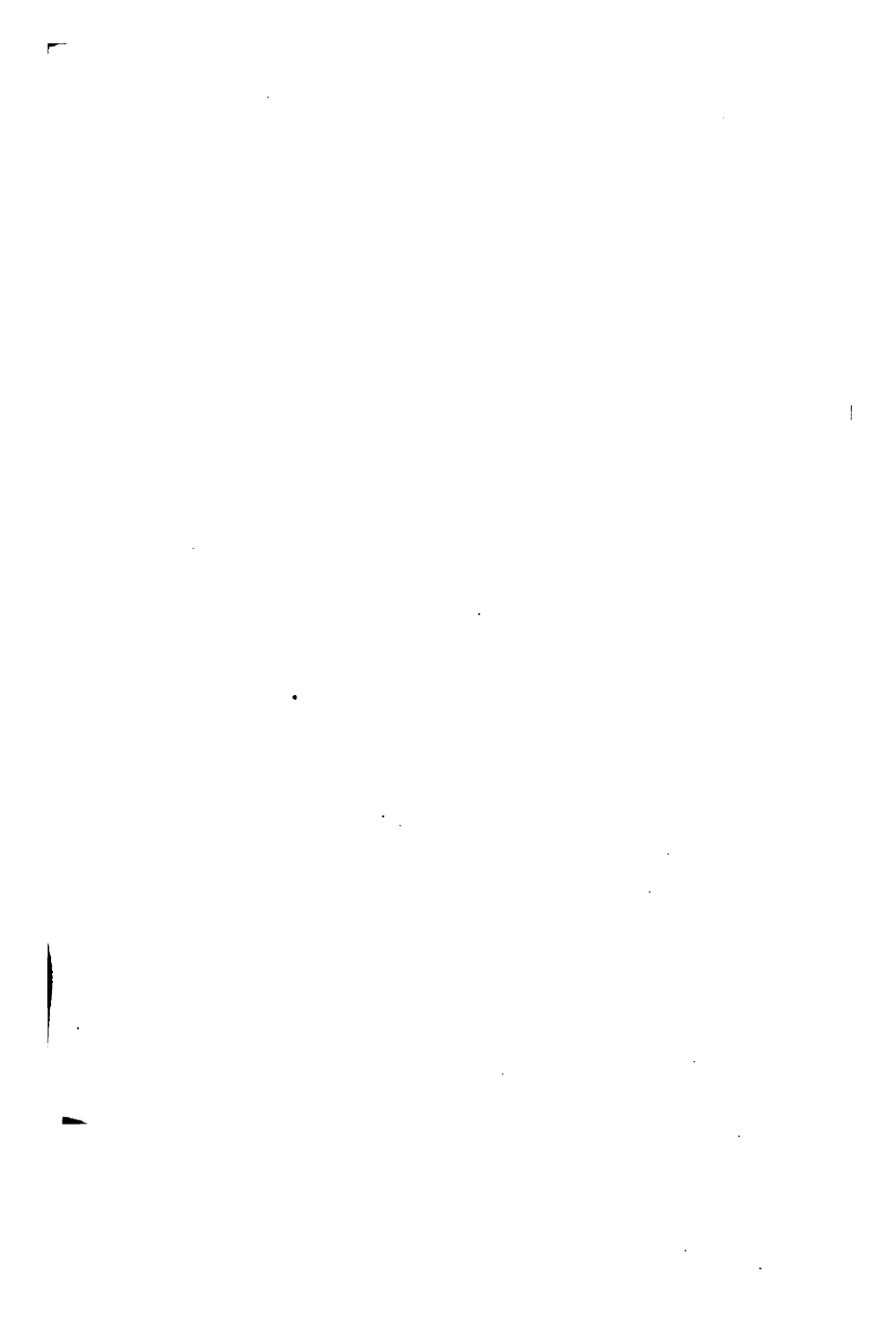




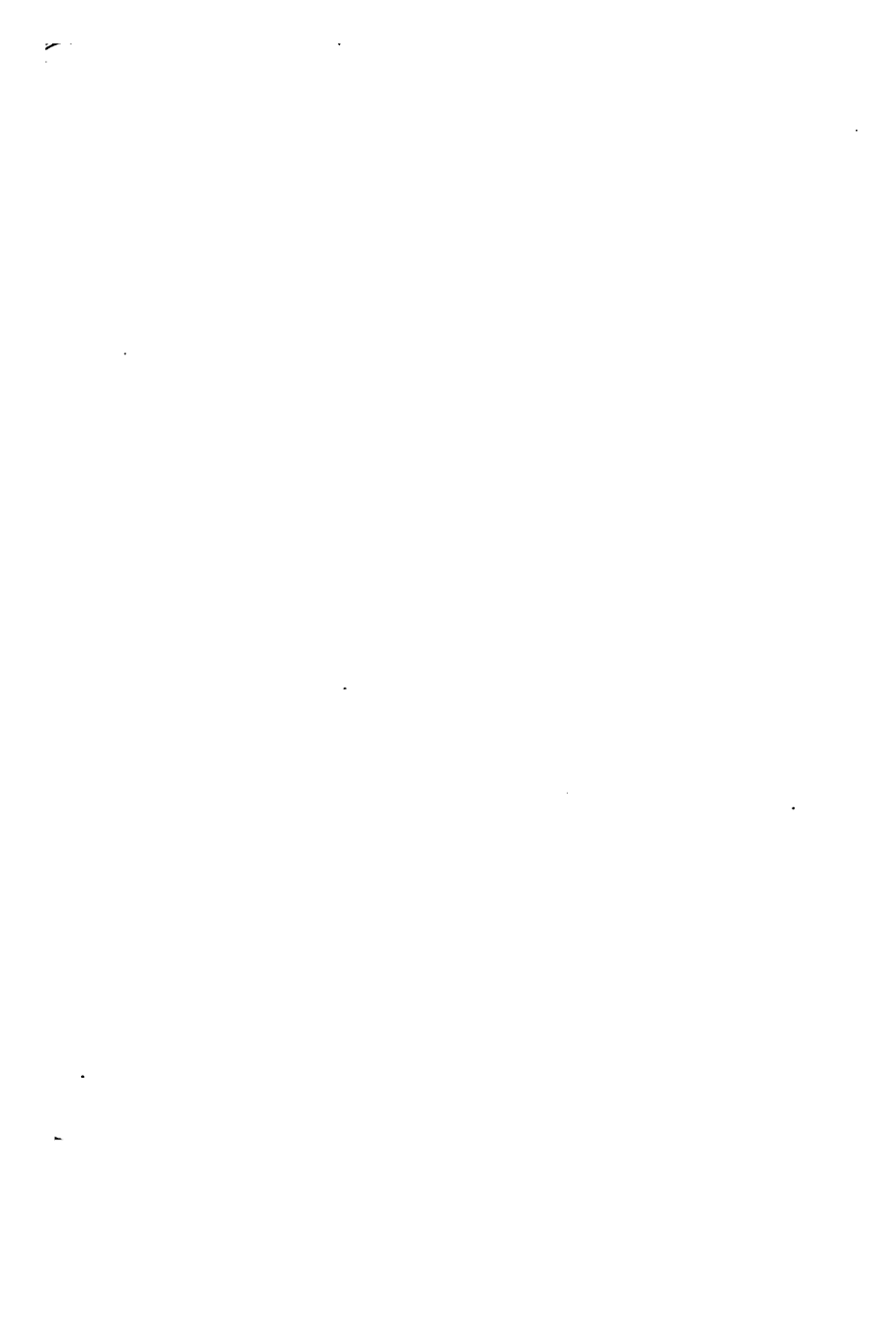












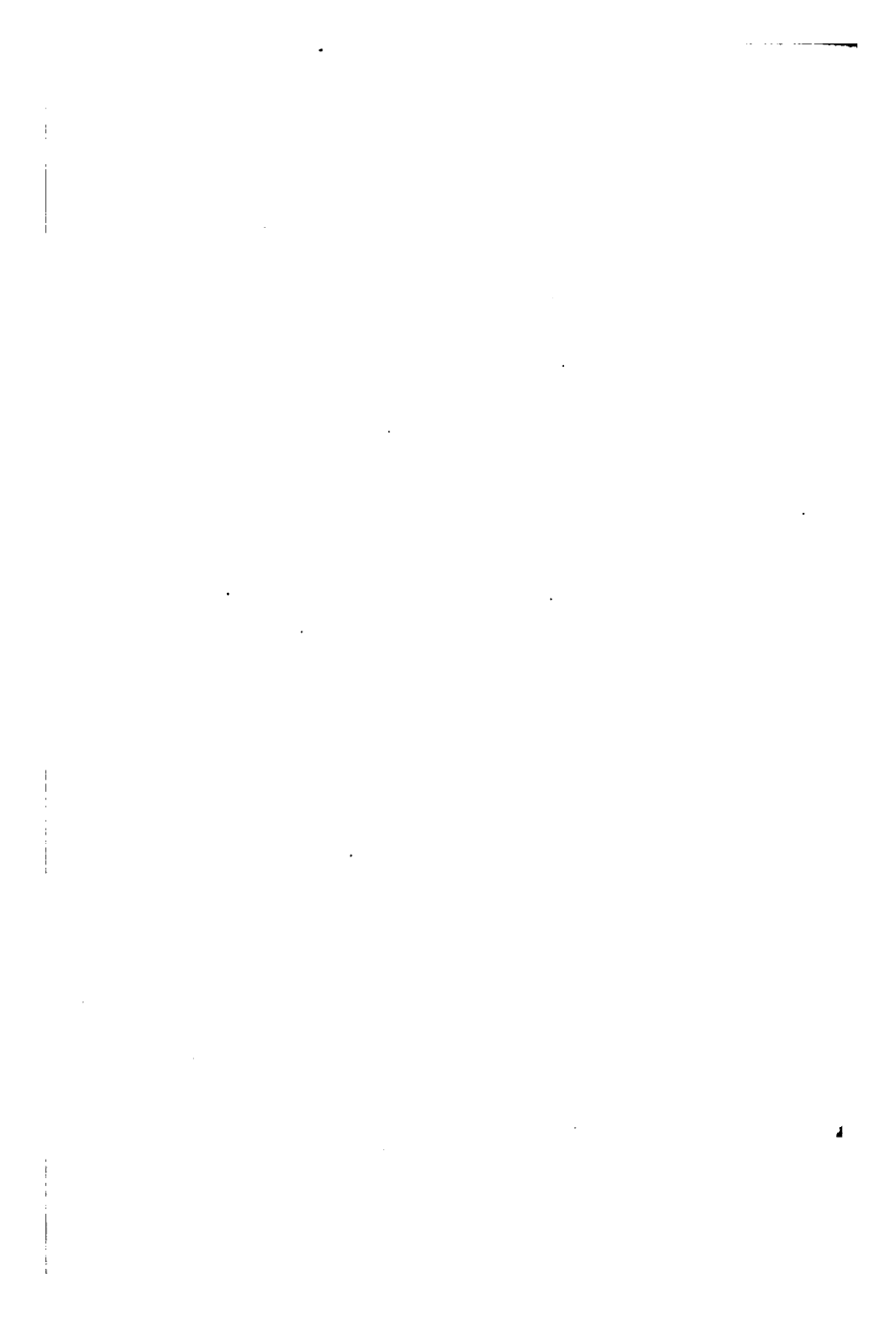








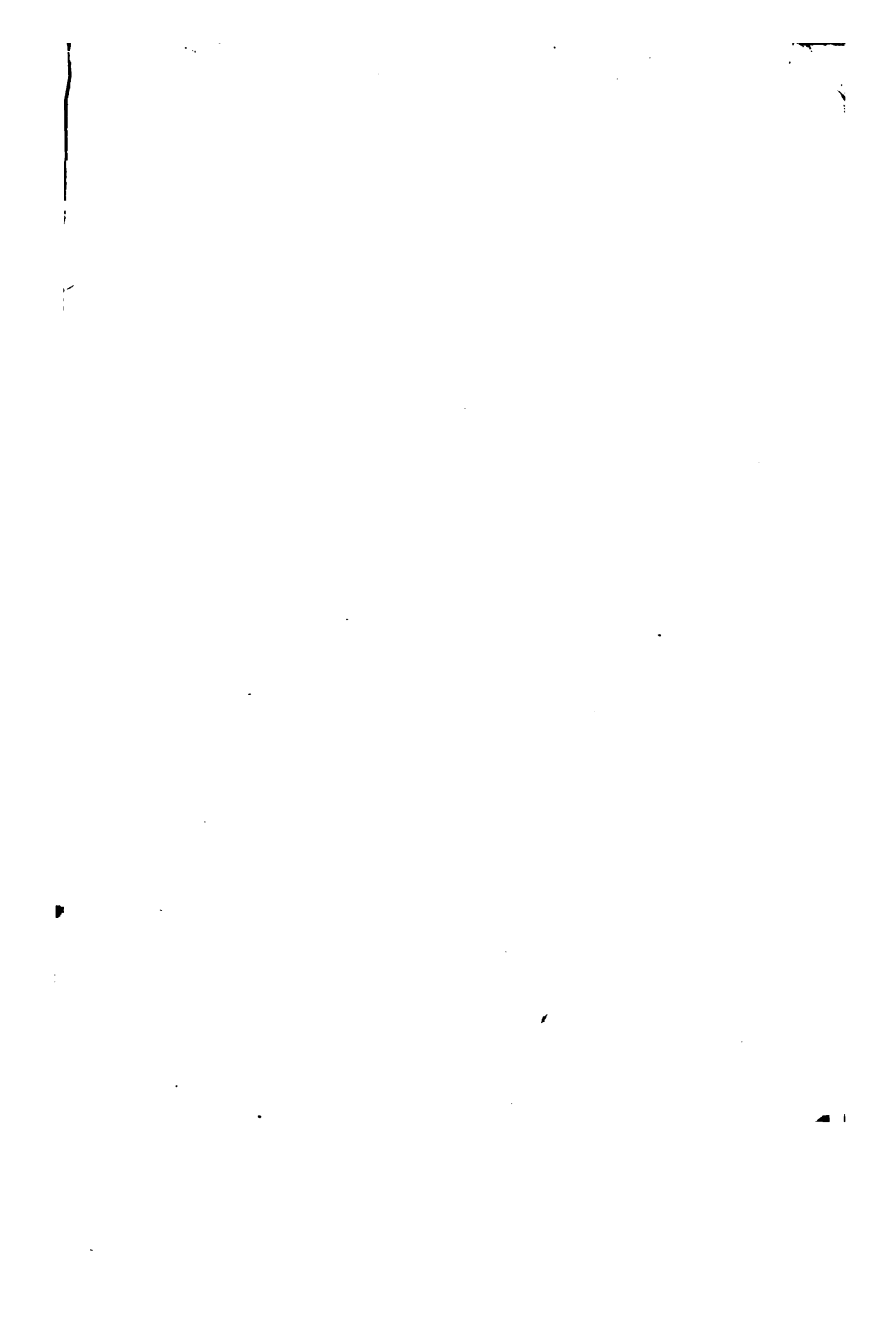


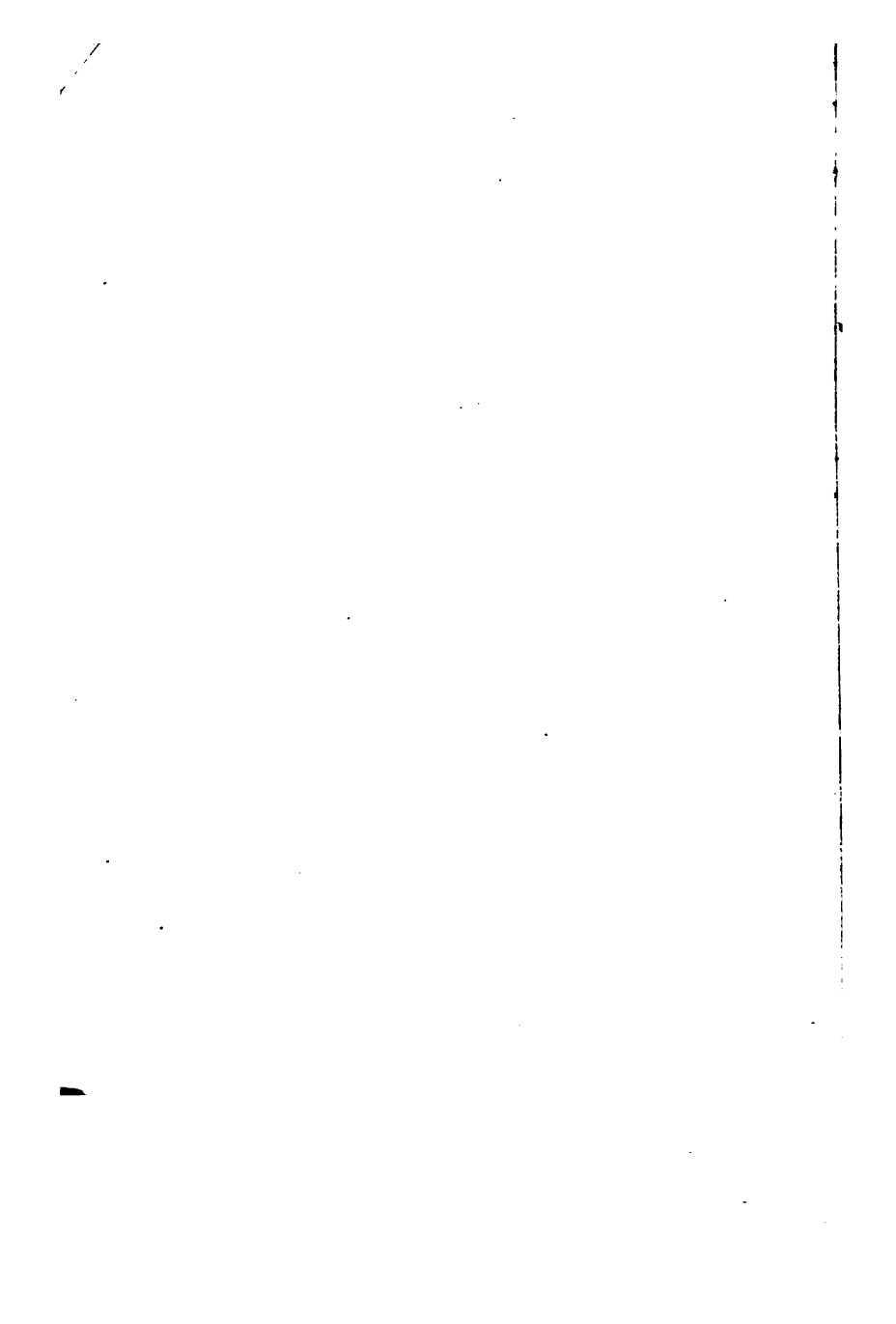




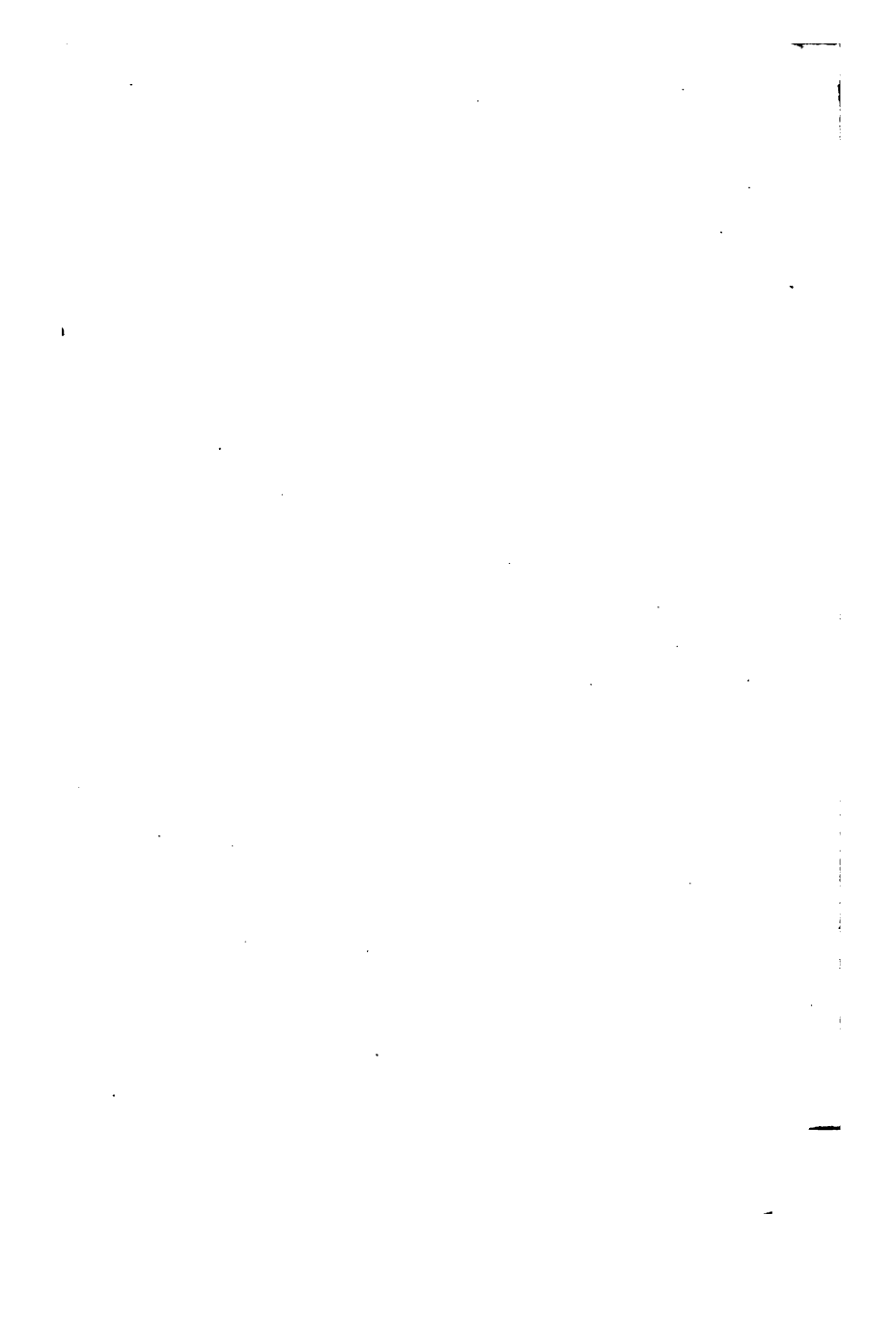


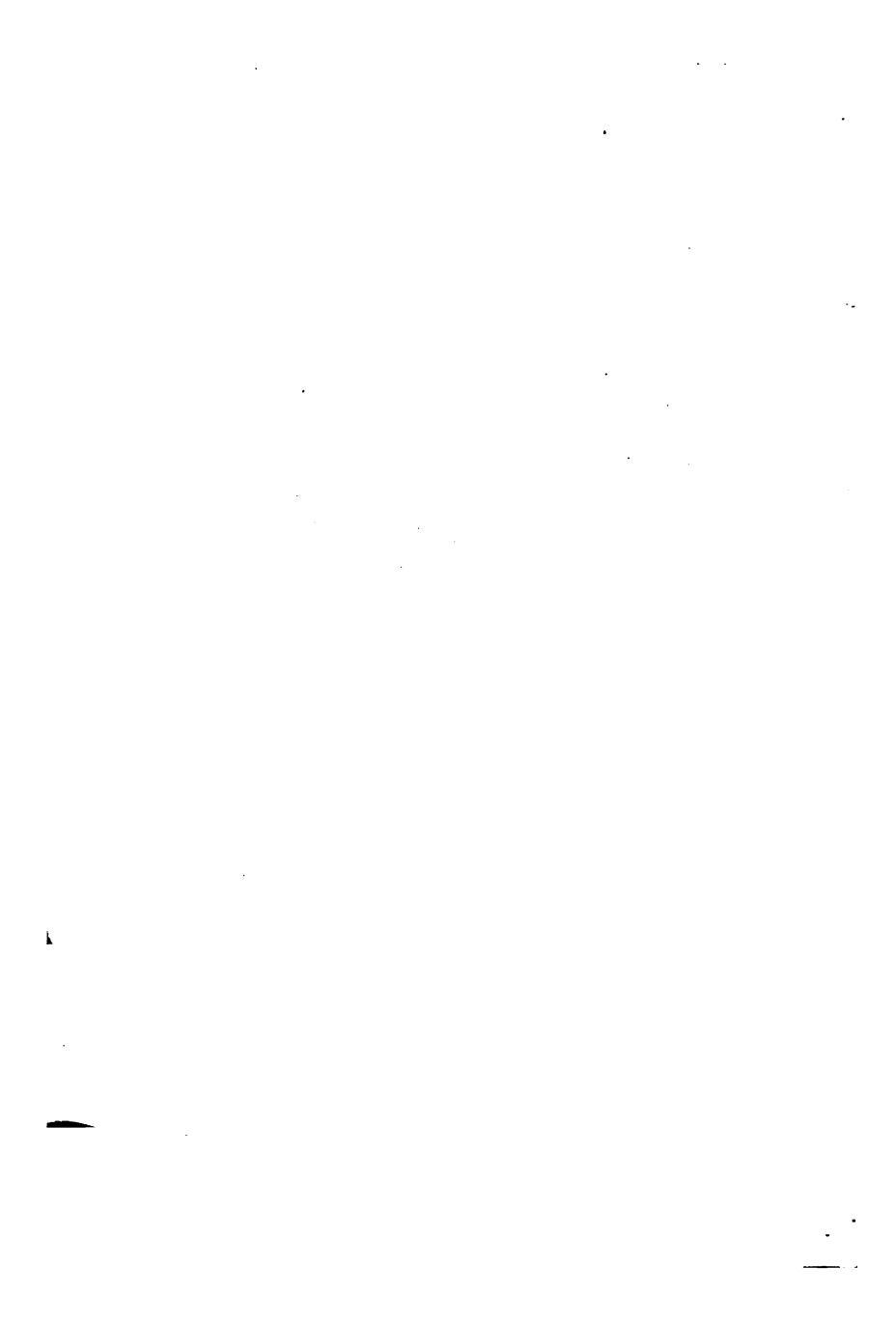












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